

PUNJAB
LAND ADMINISTRATION ACTS
AND
RULES HAVING THE FORCE OF LAW
THEREUNDER.
VOLUME I, ACTS.



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PUNJAB LAND ADMINISTRATION ACTS.

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PREFACE.

UNDER a scheme which was sanctioned by Government in 1899 the books of reference for use by Revenue Officers will, in future, be—

- (1) The Punjab Land Administration Acts and Rules under each.
- (2) The Punjab Land Administration Manual.
- (3) The Punjab Settlement Manual.
- (4) The Standing Orders of the Financial Commissioners.

2. The Punjab Settlement Manual issued originally in 1899 and a revised edition was printed in 1909. A third edition was issued in 1914 and the fourth in 1930. The Punjab Land Administration Manual was issued during 1909 and a revised edition was printed in 1931.

3. The old revenue rules have now been revised, and such of them as were obsolete or need not have the power of law have been cut out. In this connection see Financial Commissioner's Notification No. 61, dated the 18th March 1910. The residue have been printed separately as rules or Government notifications under the Land Revenue or Tenancy Act, respectively, in the volumes of Punjab Land Administration Acts; in which have been included all the Acts of general reference required by Revenue Officers.

4. At the same time the revenue circulars have been overhauled and re-arranged as standing orders of the Financial Commissioners, which now include all the instructions given in the present revenue rules and revenue circulars which do not find a place in the new rules or in the notifications under the Punjab Land Revenue and Tenancy Acts or in the Punjab Settlement and Land Administration Manuals. A standing order on Land Alienation has been added. In the process of re-arrangement it has been found advisable to amend in some instances the previous instructions.

5. A reference table showing where the paragraphs of the Revised Revenue Circulars and each of the old Revenue Rules are now to be found is printed with the Standing Orders of the Financial Commissioners.

6. The Acts are printed as amended up to the end of March 1933. References to amending Acts are given in antique type in the margin except where a footnote is given for greater clearness.

26th April 1933.

THE PUNJAB LAND REVENUE ACT, 1887.

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ACT No. XVII OF 1887.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 23rd September 1887.)

As amended by
 ACT XII of 1891,
 ACT XVII of 1896,
 PUNJAB ACT I of 1899,
 PUNJAB ACT II of 1905,
 ACT IV of 1907,
 PUNJAB ACT II of 1912,
 PUNJAB ACT V of 1912,
 ACT IV of 1914.

*The Punjab Land Revenue Act, XVII of 1887.**Heading, page 9.**Below " Punjab Act VII of 1929, "*

" Punjab Act VI of 1931 " should be added. NUE
 LAW OF THE PUNJAB

WHEREAS it is expedient to amend and declare the law in force in the Punjab with respect to the making and maintenance of records-of-rights in land, the assessment and collection of land-

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.

CORRECTION SLIP NO. 150, DATED LAHORE, THE 15TH OCTOBER, 1938.

*The Punjab Land Administration Acts, volume I.**The Punjab Land Revenue Act, XVII of 1887.**Section 1, page 1.*

In correction slip no. 37, dated the 14th September, 1937, insert the following in the margin :—

" The Government of India (Adaptation of Indian Laws) Order, 1937 ".

Page 9. — The Revenue Act, XVII of 1887.

In correction slip no. 36, dated the 14th September, 1937, insert the following in the margin :—

" The Government of India (Adaptation of Indian Laws) Order, 1937 ".

ACT No XVII OF 1857.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL
(Received the assent of the Governor-General on the 23rd
September 1857.)

As amended by
Act XII of 1891,
Act XVII of 1896,
PUNJAB ACT I of 1899,
PUNJAB ACT II of 1905,
ACT IV of 1907,
PUNJAB ACT II of 1912,
PUNJAB ACT V of 1912,
ACT IV of 1914
ACT XXXVIII of 1920,
ACT III of 1928,
ACT IV of 1929

OF THE LAND REVENUE
ACT

WHEREAS it is enacted, I and declare the law in force
in the Punjab with respect to the making and maintenance
of records-of-rights in land, the assessment and collection of land-
revenue and other matters relating to land and the liabilities
incident thereto, It is hereby enacted as follows —

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Punjab Land-Revenue Act, Title, extent
1857. and com-
mencement.

(2) It extends to the territories ~~for the time being~~ administered
by the Lieutenant-Governor of the Punjab, including the pargana
of Spiti, but not so as to affect, otherwise than as expressly provided
by this Act, any Regulation in force under the provisions of the
Statute 33, Victoria, chapter 3, section 1, in any portion of those
territories; and

(3) It shall come into force on such day as the ^{Provincial} Local Govern-
ment, with the previous sanction of the ~~Governor-General in Council~~ ^{Central Government},
may by notification appoint in this behalf †

*To be construed now as "Governor," see Section 31 of the General
Clauses Act, 1897 (X of 1897)

†The Act came into force on 1st November 1857 (Notification No 727,
dated 1st November 1857)

(4) *Repealed by Act XII of 1891*

Repeal.

2. (1) The enactments mentioned in the schedule are repealed to the extent specified in the third column thereof

(2) But all rules, appointments, assessments and transfers made, notifications and proclamations issued, authorities and powers conferred, farms and leases granted records of rights and other records framed, revised, or confirmed rights acquired liabilities incurred times and places appointed and other things done under any of the repealed enactments shall, so far as may be, deemed to have been respectively made, issued, conferred, granted, framed, revised, confirmed acquired incurred, appointed and done under this Act

(3) Any enactment or document referring to any enactment hereby repealed shall be construed as referring to this Act

Definitions

3. In this Act, unless there is something repugnant in the subject or context,

(1) "estate" means any area—

(a) for which a separate record of rights has been made, or

(b) which has been separately assessed to land-revenue, or would have been so assessed if the land revenue had not been released, compounded for or redeemed, or

(c) which the Local Government may, by general rule or special order, declare to be an estate

(2) "land owner" does not include a tenant or an assignee of land revenue, but does include a person to whom a holding has been transferred, or an estate or holding has been let in farm under this Act for the recovery of an arrear of land revenue or of a sum recoverable as such an arrear, and every other person not hereinbefore in this clause mentioned who is in possession of an estate or any share or portion thereof or in the enjoyment of any part of the profits of an estate

(3) "holding" means a share or portion of an estate held by one land-owner or jointly by two or more land owners

(4) "rent" "tenant" "landlord" and "tenancy" have the meanings respectively, assigned to those words in the Punjab Tenancy Act, 1887

(5) "pay" with its grammatical

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.

CORRECTION SLIP NO 151, DATED LAHORE, THE 15TH OCTOBER, 1938.

The Punjab Land Administration Acts, volume I.

The Punjab Land Revenue Act, XVII of 1887.

Section 3, page 10.

Sub-section (5)

In correction slip no 38, dated the 14th September, 1937, insert the following in the margin—

"The Government of India (Adaptation of Indian Laws) Order, 1937".

(8) "defaulter" means a person liable for an arrear of land-revenue and includes a person who is responsible as surety for the payment of the arrear

(9) "rates and cesses" means rates and cesses which are primarily payable by land-owners, and includes—

(i) *Repealed by Act VII of 1891*

X of 1883.

(b) the local rate, if any, payable under the Punjab District Boards Act 1883 and any fee leviable under section 11 of that Act from land-owners for the use of or benefits derived from such works as are referred to in section 20 clauses (i) and (j), of that Act,

III of 1873.

(c) any annual rate chargeable on owners of lands under section 59 of the Northern India Canal and Drainage Act, 1873*,

(d) the *malik* and village-officers' cesses and

(e) sums payable on account of village expenses,

(10) "village-cess" includes any cess, contribution or due which is customarily leviable within an estate and is neither a payment for the use of private property or for personal service nor imposed by or under any enactment for the time being in force

(11) "village-officer" means a chief headman, headman or *patwari*

(12) "Revenue-officer" in any provision of this Act, means a Revenue-officer having authority under this Act to discharge the functions of a Revenue-officer under that provision

XVIII
1879

(13) "legal practitioner" means any legal practitioner within the meaning of the Legal Practitioners Act, 1879, except a *mukhtar*

(14) "agricultural year" means the year commencing on the sixteenth day of June or on such other date as the Local Government may by notification appoint for any local area

(15) "notification" means a notification published by authority of the Local Government in the official Gazette

(16) "incumbrance" means a charge upon or claim against land arising out of a private grant or contract

(17) "survey map" includes boundary map and

Punjab Act
III of 1928

(18) "Net assets" of an estate or group of estates means the estimated average annual surplus produce of such estate or group of estates remaining after deduction of the ordinary expenses of cultivation as ascertained or estimated

Cultivation
Explanation—Ordinary expenses of calculation include payments, if any which the land owner customarily bears whether in kind or in cash either in whole or in part in respect of—

(1) water rates,

(2) maintenance of means of irrigation,

*This must not be confounded with owner's rate assessed under section 37 of Act VIII of 1873

- (3) maintenance of embankments,
- (4) supply of seed
- (5) supply of manure,
- (6) improved implements of husbandry,
- (7) concessions with regard to fodder,
- (8) special abatements made for fallows or bad harvests,
- (9) cost of collection of rent,
- (10) allowance for shortage in collection of rent,
- (11) interest charges payable in respect of advances made in cash free of interest to tenants for the purpose of cultivation,
- (12) wages or customary dues paid to artisans or menials whose products or labour are utilised for the purposes of cultivation and harvesting,

and the share that would be retainable by a tenant if the land were let to a non occupancy tenant paying rent whether in cash or in kind, at the normal rate actually prevalent in the estate or group of estates

(19) Assessment Circle means a group of estates which in the opinion of the Financial Commissioner, to be recorded in an order in writing are sufficiently homogeneous to admit of a common set of rates being used as a general guide in calculating the land revenue to be assessed upon them

Exclusion of certain land from operation of Act

4 (1) Except so far as may be necessary for the record, recovery and administration of village cesses, nothing in this Act applies to land which is occupied as the site of a town or village and is not assessed to land revenue

(2) A Revenue officer may define for the purposes of this Act the limits of any such land

Power to vary limits and alter number of tahsils districts and divisions.

5 The Local Government may by notification vary the limits of the tahsils districts and divisions into which the territories administered by it are divided and may by notification alter the number of those tahsils ~~and districts~~ and, with the previous sanction of the Governor General in Council the number of those divisions

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CHAPTER II

REVENUE OFFICERS

Classes and Powers

6 (1) There shall be the following classes of Revenue officers, namely—

- (a) the Financial Commissioner,
- (b) the Commissioner
- (c) the Collector,
- (d) the Assistant Collector of the first grade, and
- (e) the Assistant Collector of the second grade

(2) The Deputy Commissioner of a district shall be the Collector thereof

Classes of revenue officers.

(1) The Local Government may appoint any Assistant Commissioner, ~~and~~ ~~the~~ Assistant Commissioner or Tahsildar to be an

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB

CORRECTION SLIP NO. 153, DATED LAHORE, THE 15TH OCTOBER, 1939

The Punjab Land Administration Acts, volume I.

The Punjab Land Revenue Act, XVII of 1887.

Section 6, page 13.

In correction slip no. 40, dated the 14th September, 1937, insert the following in the margin :—

"The Government of India (Adaptation of Indian Laws) Order, 1937".

~~...~~

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.

CORRECTION SLIP NO. 154, DATED LAHORE, THE 16TH OCTOBER, 1939.

The Punjab Land Administration Acts, volume I.

The Punjab Land Revenue Act, XVII of 1887.

Section 7, page 13.

In correction slip no. 41, dated the 14th September, 1937, insert the following in the margin :—

"The Government of India (Adaptation of Indian Laws) Order, 1937".

(1) ...
 sion, it shall be decided in accordance with the opinion of the majority of the Financial Commissioners, or, if there is no such majority which concurs in a decision modifying or reversing the decree or order under appeal, review or revision, that decree or order shall be affirmed; and

re the case is not an appeal or a case on review or revision, the matter respecting which there is the difference of opinion shall be referred to the Local Government for decision, and the decision of that Government with respect thereto shall be final

b Government Notification No 731, dated 1st November 1937, Commissioners and Extra Assistant Commissioners who vested with the powers of the Assistant Collector of the first appointed Assistant Collectors of the second grade, and Government Notification No 720, of the same date, all am-Tahsildars have been appointed Assistant Collectors of

jab Government Notification No 621, dated the 19th Sep-
 pointing all Assistant Commissioners and Extra Assistant
 o have been invested with the powers of a Magistrate of the
 s under the Criminal Procedure Code and also with power
 the first or second class under the Punjab Courts Act
 rs of the first grade

(4) The expression "Financial Commissioner" in this or any other Act shall, when there are more Financial Commissioners than one, be construed as meaning any one of them.

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB

CORRECTION SLIP NO 155, DATED LAHORE, THE 15TH OCTOBER, 1938

The Punjab Land Administration Acts, volume I.

The Punjab Land Revenue Act, XVII of 1887.

Section 8, page 14.

In correction slip no. 42, dated the 14th September, 1937, insert the following in the margin —

"The Government of India (Adaptation of Indian Laws) Order, 1937".

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.

CORRECTION SLIP NO 156, DATED LAHORE, THE 15TH OCTOBER, 1938.

The Punjab Land Administration Acts, volume I.

The Punjab Land Revenue Act, XVII of 1887.

Section 9, page 14

In correction slip no 48, dated the 14th September, 1937, insert the following in the margin —

"The Government of India (Adaptation of Indian Laws) Order 1937".

A Collector shall —

— in his district

Power to distribute business and withdraw and transfer cases.

12. (1) The Financial Commissioner or a Commissioner or Collector may by written order distribute, in such manner as he thinks fit, any business cognizable by any Revenue officer under his control

(2) The Financial Commissioner or a Commissioner or Collector may withdraw any case pending before any Revenue-officer under his control, and either dispose of it himself, or by written order refer it for disposal to any other Revenue officer under his control

(3) An order under sub-section (1) or sub section (2) shall not empower any officer to exercise any powers or deal with any business which he would not be competent to exercise or deal with within the local limits of his own jurisdiction

Appeal, Review and Revision

13. Save as otherwise provided by this Act, an appeal shall lie Appeals from an original or appellate order of a Revenue-officer as follows, namely —

- (a) to the Collector when the order is made by an Assistant Collector of either grade,
- (b) to the Commissioner when the order is made by a Collector,
- (c) to the Financial Commissioner when the order is made by a Commissioner

Provided that—

- (a) when an original order is confirmed on first appeal, a further appeal shall not lie;
- (ii) when any such order is modified or reversed on appeal by the Collector, the order made by the Commissioner on further appeal if any to him shall be final

14. Save as otherwise provided by this Act, the period of Limitation for Appeals limitation for an appeal under the last foregoing section shall run from the date of the order appealed against, and shall be as follows, that is to say —

- (a) when the appeal lies to the Collector—thirty days
- (b) when the appeal lies to the Commissioner—sixty days,
- (c) when the appeal lies to the Financial Commissioner—ninety days

15. (1) A Revenue officer may, either of his own motion or on the application of any party interested review, and on so reviewing modify, reverse or confirm, any order passed by himself or by any of his predecessors in office Review by Revenue-officers.

Provided as follows —

- (a) when a Commissioner or Collector thinks it necessary to review any order which he has not himself passed, and when a Revenue officer of a class below that of Collector proposes to review any order whether passed by himself or by any of his predecessors in office he shall first obtain the sanction of the Revenue officer to whose control he is immediately subject
- (b) an application for review of an order shall not be entertained unless it is made within ninety days from the passing of the order, or unless the applicant satisfies the Revenue officer that he had sufficient cause for not making the application within that period,
- (c) an order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order,
- (d) an order against which an appeal has been preferred shall not be reviewed

(2) For the purposes of this section the Collector shall be deemed to be the successor in office of any Revenue-officer of a lower class who has left the district or has ceased to exercise powers as a Revenue-officer, and to whom there is no successor in office

(3) An appeal shall not lie from an order refusing to review or confirming on review a previous order

Power to call for, examine and revise proceedings of Revenue officers.

16. (1) The Financial Commissioner may at any time call for the record of any case pending before, or disposed of by, any Revenue-officer subordinate to him

(2) A Commissioner or Collector may call for the record of any case pending before, or disposed of by, any Revenue-officer under his control

(3) If in any case in which a Commissioner or Collector has called for a record he is of opinion that the proceedings taken or order made should be modified or reversed he shall report the case with his opinion thereon for the orders of the Financial Commissioner

(4) The Financial Commissioner may in any case called for by himself under sub-section (1) or reported to him under sub-section (3) pass such order as he thinks fit

Provided that he shall not under this section pass an order reversing or modifying any proceeding or order of a subordinate Revenue-officer and affecting any question of right between private persons without giving those persons an opportunity of being heard

Procedure

17. (1) The Local Government may make rules consistent with this Act for regulating the procedure of Revenue-officers under this Act in cases in which a procedure is not prescribed by this Act

Power to make rules as to procedure

(2) The rules may provide among other matters for the mode of enforcing orders of ejectment from, and delivery of possession of, immoveable property, and rules providing for those matters may confer on a Revenue-officer all or any of the powers in regard to contempt, resistance and the like which a Civil Court may exercise in the execution of a decree whereby it has adjudged ejectment from, or delivery or possession of, such property

(3) Subject to the rules under this section a Revenue-officer may refer any case which he is empowered to dispose of under this Act to another Revenue-officer for investigation and report and may decide the case upon the report

Persons by whom appearances and applications may be made before and to Revenue-officers.

18. (1) Appearances before a Revenue-officer, and applications to and acts to be done before him under this Act may be made or done—

(a) by the parties themselves, or

(b) by their recognized agents or a legal practitioner

Provided that the employment of a recognized agent or legal practitioner shall not excuse the personal attendance of a party to

any proceeding in any case in which personal attendance is specially required by an order of the officer

(2) For the purposes of sub-section (1), recognised agents shall be such persons as the Local Government may by notification declare in this behalf

(3) The fees of a legal practitioner shall not be allowed as costs in any proceeding before a Revenue-officer under this Act unless that officer considers, for reasons to be recorded by him in writing, that the fees should be allowed

19. (1) A Revenue officer may summon any person whose attendance he considers necessary for the purpose of any business before him as a Revenue-officer Power of Revenue-officer to summon persons

(2) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person or, if the summons so allows, by his recognised agent or a legal practitioner.

(3) The person attending in obedience to the summons shall be bound to state the truth upon any matter respecting which he is examined or makes statements and to produce such documents and other things relating to any such matter as the Revenue-officer may require

20. (1) A summons issued by a Revenue officer shall, if practicable, be served (a) personally on the person to whom it is addressed or failing him (b) his recognized agent or (c) an adult male member of his family usually residing with him Mode of service of summons.

(2) If service cannot be so made or if acceptance of service so made is refused, the summons may be served by posting a copy thereof at the usual or last known place of residence of the person to whom it is addressed or if that person does not reside in the district in which the Revenue officer is employed and the case to which the summons relates has reference to land in that district, then by posting a copy of the summons on some conspicuous place in or near the estate wherein the land is situate

(3) If the summons relates to a case in which persons having the same interest are so numerous that personal service on all of them is not reasonably practicable it may if the Revenue officer so directs be served by delivery of a copy thereof to such of those persons as the Revenue officer nominates in this behalf and by proclamation of the contents thereof for the information of the other persons interested

(4) A summons may if the Revenue officer so directs be served on the person named therein either in addition to or in substitution for any other mode of service by forwarding the summons by post in a letter addressed to the person and registered under Part III of the India Post Office Act 1866 *

(5) When a summons is so forwarded in a letter and it is proved that the letter was properly addressed and duly posted and regis-

tered, the Revenue-officer may presume that the summons was served at the time when the letter would be delivered in the ordinary course of post

Mode of
service of
notice, order
or proclama-
tion, or copy
thereof.

21. A notice, order or proclamation or copy of any such document, issued by a Revenue-officer for service on any person shall be served in the manner provided in the last foregoing section for the service of a summons

Mode of
making
proclama-
tion.

22. When a proclamation relating to any land is issued by a Revenue officer, it shall, in addition to any other mode of publication which may be provided by his Act, be made by beat of drum, and the posting of a copy thereof to the land to which it relates

Supplemental Provisions

Place of
sitting.

23. (1) An Assistant Collector may exercise his powers under this Act at any place within the limits of the district in which he is employed

(2) Any other Revenue-officer may only exercise his powers under this Act within the local limits of his jurisdiction

Holidays.

24. (1) The Financial Commissioner, with the approval of the Local Government shall publish in the local official Gazette before the commencement of each calendar year a list of days to be observed in that year as holidays by all or any Revenue-officers

(2) A proceeding had before a Revenue officer on a day specified in the list as a day to be observed by him as a holiday shall not be invalid by reason only of its having been had on that day

Discharge
of duties of
Collector
dying or
being dis-
abled.

25. When a Collector dies or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the district under any order which may be generally or specially issued by the Local Government in this behalf shall be deemed to be a Collector under this Act

Retention
of powers
by Revenue-
officers on
transfer

26. When a Revenue-officer of any class who has been invested under the foregoing provisions of this Act with any powers to be exercised in any local area is transferred from that local area to another as a Revenue-officer of the same or a higher class he shall continue to exercise those powers in that other local area unless the Local Government otherwise directs or has otherwise directed

Conferment
of powers of
Revenue-offi-
cer

27. (1) The Local Government may by notification confer on any person—

(a) all or any of the powers of a Financial Commissioner, Commissioner or Collector under this Act or

(b) all or any of the powers with which an Assistant Collector may be invested thereunder and may by notification withdraw any powers so conferred

(2) A person on whom powers are conferred under sub-section (1) shall exercise those powers within such local limits and in such classes of cases as the Local Government may direct and except as otherwise directed by the Local Government shall for all purposes

connected with the exercise thereof be deemed to be a Financial Commissioner, Commissioner, Collector or Assistant Collector, as the case may be.

(3) If any of the powers of a Collector under this Act are conferred on an Assistant Collector, they shall, unless the Local Government by special order otherwise directs, be exercised by him subject to the control of the Collector.

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB

CORRECTION SLIP NO 157, DATED LAHORE, THE 15TH OCTOBER, 1938

The Punjab Land Administration Acts, volume I

The Punjab Land Revenue Act, XVII of 1887.

Section 28, page 29-19

In correction slip no 44, dated the 14th September, 1937, insert the following in the margin —

“The Government of India (Adaptation of Indian Laws) Order, 1937”

of 29. (1) The Local Government may by notification impose on all or any estates in the territories for the time being administered by it a cess, to be called the village officers cess at such rate or rate not exceeding (half an anna)* for every rupee of the annual value as it may think fit, for remunerating (headmen and chief headmen)† in those territories and for defraying other expenditure directly connected with the supervision of those officers or with the performance of their duties.

1883. (2) Annual value in sub-section (1) has the meaning assigned to that expression in the Punjab District Boards Act 1883 that is to say,—

- (a) double the land revenue for the time being assessed on any land whether the assessment is leviable or not or
- (b) where the land revenue has been permanently assessed or has been wholly or in part compounded for or redeemed double the amount which but for such permanent assessment composition or redemption would have been leviable, or

* These words were substituted for the words *one anna* by the Repealing and Amending (Rates and Cesses) Act 1907 (IV of 1907)

† These words were substituted for the words *village-officers* by the Repealing and Amending (Rates and Cesses) Act 1907 (IV of 1907)

- (c) where no land revenue has been assessed, double the amount which would have been assessed, if the average village rate had been applied,

Provided that, in any tract in which, under the settlement for the time being in force, the improvement of the land due to canal irrigation has been excluded from account in assessing the land-revenue, and a rate has been imposed in respect of such improvement, that rate shall be added to the land revenue for the purpose of computing the annual value

(3) The Financial Commissioner may make rules for the collection control and expenditure of the village officers' cess

(4) All cesses now levied in any local area for the purposes mentioned in sub section (1) shall be deemed to have been lawfully imposed and shall until the village officers' cess is imposed in that local area under that sub section be deemed to be lawfully leviable and for the purposes of this section, to be that cess

30. (1) The emoluments of a kanungo, zaildar, inamdar or village officer shall not be liable to attachment in execution of a decree or order of any Civil or Revenue Court

(2) An assignment of or charge on, or an agreement to assign or charge any such emoluments shall be void unless it is authorized by rules made by the Financial Commissioner in this behalf

CHAPTER IV

RECORDS

Records of rights and Annual Records

Record of rights and documents included therein

31. (1) Save as otherwise provided by this Chapter, there shall be a record of rights for each estate

(2) The record of rights for an estate shall include the following documents namely,—

(a) statements showing, so far as may be practicable,—

(i) the persons who are land owners, tenants or assignees of land revenue in the estate or who are entitled to receive any of the rents profits or produce of the estate or to occupy land therein,

(ii) the nature and extent of the interests of the persons, and the conditions and liabilities attaching thereto and

(iii) the rent land revenue, rates cesses or other payments due from and to each of the persons and to the Government

(b) a statement of customs respecting rights and liabilities in the estate

(c) a map of the estate, and

(d) such other documents as the Financial Commissioner may, with the previous sanction of the Local Government, prescribe

FINANCIAL COMMISSIONER'S OFFICE, LUDHIANA

CORRECTION IN THE FIRST PART OF THE 17TH OCTOBER, 1887

The Punjab Land Administration Act, volume I.

The Punjab Land Revenue Act, XVII of 1887.

Section 32

Sub-section (3), page 21

In correction slip no. 45, dated the 14th September, 1897
insert the following in the margin —

"The Commissioner of Lands (Administration) Order 1897"

A 100

32. (1) The Collector shall cause to be prepared by the patwari a statement of each estate yearly or at such other intervals as the Financial Commissioner may prescribe, a statement of all the rights and interests amended in accordance with the provisions of this Chapter

(2) This edition of the record of rights shall be called the annual record for the estate and shall comprise the statements mentioned in sub-section (2) clause (a) of section 31 and such other documents as may be the Financial Commissioner may with the previous sanction of the Local Government prescribe

(3) For the purposes of the preparation of the annual record the Collector shall cause to be kept up by the patwari of each estate a register of mutations and such other registers as the Financial Commissioner may prescribe

Procedure for making Part C entries

34 (1) Any person acquiring by inheritance, purchase, mortgage gift or otherwise any right in an estate as a land owner assignee of land revenue or tenant having a right of occupancy, shall report his acquisition of the right to the patwari of the estate

(2) If the person acquiring the right is a minor or otherwise disqualified his guardian or other person having charge of his property shall make the report to the patwari

(3) The patwari shall enter in his register of mutations every report made to him under sub-section (1) or sub-section (2), and shall also make an entry therein respecting the acquisition of any such right as aforesaid which he has reason to believe to have taken place, and of which a report should have been made to him under one or other of those sub-sections and has not been so made

(4) A Revenue-officer shall from time to time inquire into the correctness of all entries in the register of mutations and into all such acquisitions as aforesaid coming to his knowledge of which under the foregoing sub-sections report should have been made to the patwari and entry made in that register, and shall in each case make such order as he thinks fit with respect to the entry in the annual record of the right acquired

Making of that part of the annual record which relates to land-owners, assignees of revenue and occupancy tenants

(5) Such an entry shall be made by the insertion in that record of a description of the right acquired and by the omission from that record of any entry in any record previously prepared which by reason of the acquisition has ceased to be correct

Making of that part of the annual record which relates to other persons

35. The acquisition of any interest in land other than a right referred to in sub section (1) of the last foregoing section shall,—

(a) if it is undisputed, be recorded by the patwari in such manner as the Financial Commissioner may by rule in this behalf prescribe and

(b) if it is disputed be entered by the patwari in the register of mutations and dealt with in the manner prescribed in sub-sections (4) and (5) of the last foregoing section

Determination of disputes

36 (1) If during the making, revision or preparation of any record or in the course of any enquiry under this Chapter a dispute arises as to any matter of which an entry is to be made in a record or in a register of mutations a Revenue officer may of his own motion or on the application of any party interested but subject to the provisions of the next following section, and after such enquiry as he thinks fit, determine the entry to be made as to that matter

(2) If in any such dispute the Revenue-officer is unable to satisfy himself as to which of the parties thereto is in possession of any property to which the dispute relates he shall ascertain by summary inquiry who is the person best entitled to the property, and shall by order direct that that person be put in possession thereof, and that an entry in accordance with that order be made in the record or register

(3) A direction of a Revenue officer under sub section (2) shall be subject to any decree or order which may be subsequently passed by any Court of competent jurisdiction

Restrictions on variations of entries in records

37. Entries in records of rights or in annual records except entries made in annual records by patwaris under clause (a) of section 35 with respect to undisputed acquisitions of interest otherwise than by—

(a) making entries in accordance with facts proved or admitted to have occurred,

(b) making such entries as are agreed to by all the parties interested therein or are supported by a decree or order binding on those parties

(c) making new maps where it is necessary to make them

Mutation fees

38 (1) The Local Government may fix a scale of fees for all or any classes of entries in any record or register under this Chapter and for copies of any such entries

(2) A fee in respect of an entry shall be payable by the person in whose favour the entry is made

39. Any person neglecting to make the report required by section 34 within three months from the date of his acquisition of a right referred to in that section shall be liable, at the discretion of the Collector, to a fine not exceeding five times the amount of the duty referred to in that section which would have been payable according to the scale fixed under the last foregoing section if the acquisition of the right had been reported immediately after its acquisition.

40. Any person whose rights, interests or liabilities are in the nature of a mortgage shall be bound to report the same to the Collector within three months from the date of their acquisition.

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.

CORRECTION SLIP NO. 159, DATED LAHORE, THE 15TH OCTOBER, 1935.

The Punjab Land Administration Acts, volume I

The Punjab Land Revenue Act, XVII of 1887.

Section 41, page 23.

In correction slip no. 46, dated the 11th September, 1937, insert the following in the margin:—

"The Government of India (Adaptation of Indian Laws) Order, 1937."

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.

CORRECTION SLIP NO. 160, DATED LAHORE, THE 15TH OCTOBER, 1938.

The Punjab Land Administration Acts, volume I.

The Punjab Land Revenue Act, XVII of 1887.

Section 42, page 23.

Sub-sections (1), (2) and (4).

In correction slip no. 47, dated the 14th September, 1937, insert the following in the margin:—

"The Government of India (Adaptation of Indian Laws) Order, 1937."

character in which there did not exist any forest or quarry, or any such land or interest,

and no interest was taken into account in

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.

CORRECTION SLIP NO. 161, DATED LAHORE, THE 15TH OCTOBER, 1938.

The Punjab Land Administration Acts, volume I.

The Punjab Land Revenue Act, XVII of 1887.

Section 43, page 23.

In correction slip no. 48, dated the 14th September, 1937, insert the following in the margin:—

"The Government of India (Adaptation of Indian Laws) Order, 1937."

(2) The compensation shall be determined as nearly as may be in accordance with the provisions of the Land Acquisition Act, 1870 *

Presumption
in favour of
entries in
Records of
rights and
annual re-
cords

44. An entry made in a record-of-rights in accordance with the law for the time being in force, or in an annual record in accordance with the provisions of this Chapter and the rules thereunder, shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor

Suit for
declaratory
decree by
persons ag-
grieved by
an entry
in a record

45. If any person considers himself aggrieved as to any right of which he is in possession by an entry in a record-of-rights or in an annual record, he may institute a suit for a declaration of his right under Chapter VI of the Specific Relief Act, 1877.

Y of

Supplemental Provisions

46. The Financial Commissioner may make rules—

Powers to
make rules
respecting
records and
other matters
connected
therewith

- (a) prescribing the language in which records and registers under this Chapter are to be made,
- (b) prescribing the form of those records and registers, and the manner in which they are to be prepared, signed and attested,
- (c) for the survey of land so far as may be necessary for the preparation and correction of those records and registers,
- (d) for the conduct of inquiries by Revenue officers under this Chapter, and
- (e) generally for the guidance of Revenue officers and village-officers in matters pertaining to records and registers mentioned or referred to in this Chapter

Records of
rights and
annual
records
for groups of
estates

47. (1) The Financial Commissioner may direct that a record-of-rights be made for any group of neighbouring estates instead of separately for each of the estates

(2) The provisions of this Chapter with respect to a record-of-rights and annual record for an estate shall then, so far as they can be made applicable, apply to a record-of-rights and annual record for a group of estates

CHAPTER V

ASSESSMENT

Assessment
of land rev-
enue.

48. (1) All land, to whatever purpose applied and wherever situate, is liable to the payment of land revenue to the Government, except such land as has been wholly exempted from that liability by special contract with the Government or by the provisions of any law for the time being in force and such land as is included in the village site

For
III c

(2) Land revenue shall be assessed in cash

(3) Land may be assessed to land revenue notwithstanding that that revenue, by reason of its having been assigned, released, commuted for or redeemed, is not payable to the Government

For
III d

* See now the Land Acquisition Act 1891 (I of 1891)

(4) Land Revenue may be assessed—

(a) as a fixed annual charge payable in a lump sum or by instalments;

(b) in the form of prescribed rates per acre or other unit of area applicable to the area recorded as sown, matured or cultivated during any harvest or during any year

48 A. The assessment of land revenue shall be based on an estimate of the average money value of the net assets of the estate or group of estates in which the land concerned is situated Basis of assessment.

48 B. If the land-revenue is assessed as a fixed annual charge the amount thereof, and if it is assessed in the form of prescribed rate, the average amount which, according to an estimate in writing approved by the Local Government will be leviable annually, shall not, in the case of any assessment circle exceed one fourth of the estimated money value of the net assets of such assessment circle Limit of assessment.

Provided that nothing contained in this section shall affect any assessment in force at the time of the commencement of the Punjab Land Revenue (Amendment) Act 1928

General Assessments

49. (1) Assessments of land revenue may be general or special

(2) A general assessment of the land revenue of any area shall not be undertaken without the previous sanction of the Local Government and notification of that sanction Notification of intended re-assessment and instructions as to principles of assessment

(3) In granting such sanction the Local Government may give such instructions consistent with the provisions of this Act and the rules made thereunder as it may deem fit

50. (1) A general assessment shall be made by a Revenue-officer Mode of determining assessment

(2) Before making such assessment the Revenue officer shall report through the Financial Commissioner for the sanction of the Local Government his proposals with regard thereto

51. (1) After consideration of the proposals submitted by the Revenue officer under the provisions of section 50 the Local Government shall pass such orders as it may deem fit, subject to the provisions of sub-sections (3) and (4) and on the receipt of such orders the Revenue officer shall make an order determining the assessment proper for each estate concerned and shall announce it in such manner as the Local Government may by rule prescribe Announcement of assessment.

(2) At the time of announcing the assessment the Revenue officer shall also declare the date from which it is to take effect, and subject to the other provisions of this Act, it shall take effect accordingly

(3) Subject to the provisions of sub-section (4) the average rate of incidence on the cultivated area of the land revenue imposed under the provisions of sub-section (1) on any assessment circle forming part of any area in respect of which a notification has been issued under sub-section (2) of section 49 shall not exceed the rate of incidence of the land revenue imposed at the last previous

assessment by more than one fourth provided that the rate of incidence of the assessment imposed on any estate shall not exceed the rate of incidence of the last previous assessment on that estate by more than two thirds

(4) The provisions of sub section (3) shall not be applicable in the case of land which has not been previously assessed to land revenue or of which the last previous assessment was made under the provision of clause (b) of sub section (1) of section 59 or in the case of land in which canal irrigation has been introduced after the date of the orders passed under the provision of sub section (1) of section 51 at the last previous assessment or in the case of an area which has been declared by notification to be an urban assessment circle and for the purpose of calculating the increase in the incidence of the land revenue for the purpose of sub section (3), all such land shall be excluded from calculation

Provided that no area shall be declared to be an urban assessment circle unless it is included within the limits of a municipality or of an area in respect of which a notification has been issued under section 241 of the Punjab Municipal Act 1911 or of an area declared to be a small town under the provisions of the Punjab Small Towns Act 1921

Application
or recon-
sideration
of assess-
ment.

52 (1) The land owner may within thirty days from the date of the announcement of the assessment present a petition to the Revenue officer for a reconsideration of the amount form or conditions of the assessment

(2) Where the land revenue is assigned the assignee thereof may within thirty days from that date present a like petition to the Revenue officer

(3) The order passed by the Revenue officer on the petition shall set forth his reasons for granting or refusing it

Confirmation
and duration
of assess-
ment

53 (1) An assessment the undertaking of which has been sanctioned under the provisions of section 49 shall not be considered final until it has been confirmed by the Local Government

(2) At any time before an assessment is so confirmed the Commissioner or Financial Commissioner may subject to the provisions of sub section (3) modify the assessment of any estate

(3) Before an enhancement is ordered under the provisions of sub section (2) the Commissioner or the Financial Commissioner as the case may be shall cause reasonable notice to be given to the land-owners by proclamation published in the manner described in section 22 to show cause in a petition addressed to the Revenue officer why the proposed enhancement should not be ordered and the Revenue officer shall enquire into any objections raised by any land-owner and submit such petition received with his report thereon to the Commissioner or the Financial Commissioner who shall consider the petition and the report and shall also hear the petitioner if he so desires

Duration
of assessment.

53-A. (1) The Local Government shall when confirming an assessment under sub section (1) of section 53 fix a period of time for which the assessment shall remain in force

(2) The period fixed under sub-section (1) shall be forty years: provided that—

- (a) a period not extend beyond twenty years and not shorter than ten years may be fixed for any area, upon which the Local Government, in which canal irrigation has been introduced after the date of the act passed under the provisions of sub-section (1) of section 51 of the last previous enactment or in which it has been proposed to introduce such irrigation during the period

for then
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the Government
to remain in
force till new
amendment
takes effect
of the
be liable for
amendment
and other
a notice
period.

55. If the assessment of an estate under section 51 is in the form of a fixed assessment of an estate for a term of years, the Collector may take possession of the estate and deal with it, as much as may be, as if the assessment of the assessment is fixed had been adopted as a provision for the recovery of an estate of land revenue due thereon.

(2) While the Revenue Officer requires a notice under sub-section (1), the Collector may take possession of the estate and deal with it, as much as may be, as if the assessment of the assessment is fixed had been adopted as a provision for the recovery of an estate of land revenue due thereon.

(3) While the estate is in the possession of the Collector, the landowner or landowners shall be entitled to receive from the Government an allowance, to be fixed by the Financial Commissioner, which shall not be less than five nor more than ten per cent of the net income realized by the Government from the estate.

56. (1) If the assessment announced under section 51 is in the form of a fixed assessment of an estate for a term of years, the Revenue Officer shall, before the date on which the first instalment thereof becomes payable, make an order directing it to be assessed on the several holdings comprised in the estate and make and publish a record of the distribution. These orders of the Revenue Officer shall be published in the official gazette of the Government.

(2) The Collector may for sufficient reasons make an order revising the record at any time while the assessment continues to be in force, and publish the record so revised.

(3) If the assessment announced under section 51 is in the form of rates chargeable according to the results of each year or harvest,

a Revenue officer shall from year to year or from harvest to harvest as the conditions of the assessment may require, make and publish, not later than one month before the first instalment of the land-revenue falls due, a record of the amount payable in respect of each holding

Application
for amend-
ment of the
distribution
of an assess-
ment

57. (1) Any person affected by a record made under sub section (1) or sub section (3) of the last foregoing section, or by the revision of a record under sub section (2) of that section may, within thirty days from the date of the publication of the record, present a petition to the Revenue officer for a reconsideration of the record so far as it affects him

(2) The order passed by the Revenue officer on the petition shall set forth his reasons for granting or refusing it

Appeals from
orders under
sections 52
and 57

58. An appeal from an order under the last foregoing section or section 52 shall lie to the Commissioner, and from the appellate order of the Commissioner to the Financial Commissioner

Special Assessments

Special
assessments

59. (1) Special assessments may be made by Revenue-officers in the following cases, namely —

(a) when land revenue which has been released or assigned is resumed,

(b) when lands are sold, leased or granted by the ~~Government~~ ^{Crown} ~~Government~~ ^{Government} Pam
III

(c) when the assessment of any land has been annulled or the land owner has refused to be liable therefor, and the term for which the land was to be managed by the Collector or his agent or let in farm has expired,

(d) when assessments of land revenue require revision in consequence of the action of water or sand or of calamity of season or from any other cause,

(e) when revenue due to the ~~Government~~ ^{Crown} ~~Government~~ ^{Government} on account of pasture or other natural products of land, or on account of mills, fisheries or natural products of water or on account of other rights described in section 41 or section 42 has not been included in an assessment made under the foregoing provisions of this Chapter

(2) The Financial Commissioner may confirm any assessment made under this section Pam
III

(3) The foregoing provisions of this Chapter with respect to general assessments shall be subject to such modifications thereof as the Financial Commissioner may prescribe ^{by executive instructions} issued under the provisions of section 60-C regulate the procedure of Revenue officers making special assessments Pam
III

Power to
make rules

60. The Local Government shall, subject to the provisions of section 60 A from time to time make rules prescribing— Pam
III

(a) the method by which the estimate of the money value of the nett assets of an estate or group of estates shall be made;

(b) the method by which assessment to land revenue shall be

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.

CORRECTION SLIP NO. 163, DATED LAHORE, THE 15TH OCTOBER, 1938.

The Punjab Land Administration Acts, volume I.

The Punjab Land Revenue Act, XVII of 1887.

Section 60-A, page 29.

In correction slip no. 60, dated the 14th September, 1937, insert the following in the margin :—

“The Government of India (Adaptation of Indian Laws) Order, 1937.”

8. **60-B.** ~~Any instructions~~ ^{Rules and} ~~any instructions~~ ^{executive} ~~contained in section 60-A.~~ ^{instructions} for the purpose of all assessment operations begun before the date of publication of rules made after the commencement of the Punjab Land Revenue (Amendment) Act, 1928, the rules and executive instructions relating to the matters mentioned in clauses (a), (b), (c) and (d) of section 60 which were in force before such publication shall remain in force.

c

Rules and executive instructions issued by the Government of India in 1937, to follow the pur of assess operation begun be issue of made i the provi of secti 60 A.

Act, 1928. **60-C.** The Local Government or the Financial Commissioner with the approval of the Local Government may, for the guidance of Revenue-officers, from time to time, issue executive instructions relating to all matters to which the provisions of this chapter apply, provided that such instructions shall be consistent with the provisions of this Act and the rules made thereunder.

Power to issue ins tions.

CHAPTER VI.

COLLECTION OF LAND-REVENUE

61. (1) In the case of every estate, the entire estate and the land-owner or, if there are more than one, the land-owners jointly and severally, shall be liable for the land-revenue for the time being assessed on the estate:

Security: payment land reve

Provided that—

(a) the Local Government may by notification declare that in any estate a holding or its owner shall not be liable for any part of the land revenue for the time being assessed on the estate except that part which is payable in respect of the holding and

(b) when there are superior and inferior land-owners in the same estate the Financial Commissioner may by rule, or by special order in each case determine whether the superior or inferior land owners shall be liable for the land revenue or whether both shall be so liable and if so in what proportions

(2) A notification under proviso (a) to sub-section (1) may have reference to any single estate or to any class of estate or estates generally in any local area

Further security for payment of land revenue

62 (1) The land revenue for the time being assessed on an estate or payable in respect of a holding shall be the first charge upon the rents profits and produce thereof

(2) Without the previous consent of the Collector the rents profits or produce of an estate or holding shall not be liable to be taken in execution of a decree or order of any Court until the land revenue chargeable against the rents profits or produce and any arrear of land revenue due in respect of the estate or holding have been paid

Orders to regulate payment of land revenue

63 (1) Notwithstanding anything in any record of rights the Financial Commissioner may fix the number and amount of the instalments and the times places and manner by at and in which land revenue is to be paid

(2) Until the Financial Commissioner otherwise directs land revenue shall be payable by the instalments at the times and place and in the manner by at and in which it is payable at the commencement of this Act

Rules to regulate collection remission and suspension of land revenue

64 (1) The Financial Commissioner may make rules consistent with this Act to regulate the collection remission and suspension of land revenue and may by those rules determine the circumstances and terms in and on which assigned land revenue may be collected by the assignee

(2) Where land revenue due to an assignee is collected by a Revenue-officer there shall be deducted from the sum collected such a percentage on account of the cost of collection as the Financial Commissioner may by rule in this behalf prescribe

(3) A suit for an arrear of assigned land revenue shall not be entertained unless there is annexed to the plaint at the time of the presentation thereof a document under the hand of the Collector specially authorizing the institution of the suit

When a process shall be issued as part of arrear

65 The rules of any process issued under this Chapter shall be recoverable as part of the arrear of land revenue in respect of which the process was issued

66. A statement of account certified by a Revenue-officer shall be conclusive proof of the existence of an arrear of land revenue, of its amount and of the person who is the defaulter

Certified account to be evidence as to arrear

67. Subject to the other provisions of this Act, an arrear of land revenue may be recovered by any one or more of the following processes, namely —

Processes for recovery of arrears.

- (a) by service of a writ of demand on the defaulter,
- (b) by arrest and detention of his person,
- (c) by distress and sale of his moveable property and uncut or ungathered crops,
- (d) by transfer of the holding in respect of which the arrear is due,
- (e) by attachment of the estate or holding in respect of which the arrear is due,
- (f) by annulment of the assessment of that estate or holding,
- (g) by sale of that estate or holding,
- (h) by proceedings against other immovable property of the defaulter

68. A writ of demand may be issued by a Revenue-officer on or after the day following that on which an arrear of land revenue accrues

Writ of demand.

69. (1) At any time after an arrear of land revenue has accrued a Revenue officer may issue a warrant directing an officer named therein to arrest the defaulter and bring him before the Revenue-officer

Arrest and detain on of defaulter

(2) When the defaulter is brought before the Revenue-officer, the Revenue-officer may cause him to be taken before the Collector, or may keep him under personal restraint for a period not exceeding ten days and then if the arrear is still unpaid cause him to be taken before the Collector

(3) When the defaulter is brought before the Collector the Collector may issue an order to the officer in charge of the civil jail of the district directing him to confine the defaulter in the jail for such period not exceeding one month from the date of the order as the Collector thinks fit

(4) The process of arrest and detention shall not be executed against a defaulter who is a female a minor a lunatic or an idiot

70. (1) At any time after an arrear of land revenue has accrued the moveable property and uncut or ungathered crops of the defaulter may be distrained and sold by order of a Revenue-officer

Distress and sale of moveable property and crops.

(2) The distress and sale shall be conducted as nearly as may be in accordance with the law for the time being in force for the attachment and sale of moveable property under the decree of a Revenue Court constituted under the Punjab Tenancy Act 1887

Provided that in addition to the particulars exempted by that law from liability to sale so much of the produce of the land of the defaulter as the Collector thinks necessary for seed grain and for the subsistence until the harvest next following of the defaulter

Provided that—

(a) the Local Government may by notification declare that in any estate a holding or its owner shall not be liable for any part of the land revenue for the time being assessed on the estate except that part which is payable in respect of the holding and

(b) when there are superior and inferior land-owners in the same estate the Financial Commissioner may by rule, or by special order in each case determine whether the superior or inferior land owners shall be liable for the land revenue or whether both shall be so liable and if so in what proportions

(2) A notification under proviso (a) to sub-section (1) may have reference to any single estate or to any class of estate or estates generally in any local area

Further security for payment of land revenue.

62. (1) The land revenue for the time being assessed on an estate or payable in respect of a holding shall be the first charge upon the rents, profits and produce thereof

(2) Without the previous consent of the Collector, the rents profits or produce of an estate or holding shall not be liable to be taken in execution of a decree or order of any Court until the land revenue chargeable against the rents, profits or produce and any arrear of land revenue due in respect of the estate or holding, have been paid

Orders to regulate payment of land revenue.

63. (1) Notwithstanding anything in any record of rights the Financial Commissioner may fix the number and amount of the instalments and the times places and manner by, at and in which land revenue is to be paid

(2) Until the Financial Commissioner otherwise directs, land revenue shall be payable by the instalments at the times and place and in the manner by at and in which it is payable at the commencement of this Act

Rules to regulate collection and remission and suspension of land revenue.

64. (1) The Financial Commissioner may make rules consistent with this Act to regulate the collection remission and suspension of land revenue and may by those rules determine the circumstances and terms in and on which assigned land revenue may be collected by the assignee

(2) Where land revenue due to an assignee is collected by a Revenue-officer there shall be deducted from the sum collected such a percentage on account of the cost of collection as the Financial Commissioner may by rule in this behalf prescribe

(3) A suit for an arrear of assigned land revenue shall not be entertained unless there is annexed to the plaint at the time of the presentation thereof a document under the hand of the Collector specially authorizing the institution of the suit

Costs recoverable as part of arrear

65. The costs of any process issued under this Chapter shall be recoverable as part of the arrear of land revenue in respect of which the process was issued

66. A statement of account certified by a Revenue-officer shall be conclusive proof of the existence of an arrear of land revenue, of its amount and of the person who is the defaulter

Certified
account to be
evidence as
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- (a) by service of a writ of demand on the defaulter,
- (b) by arrest and detention of his person,
- (c) by distress and sale of his moveable property and uncut or ungathered crops,
- (d) by transfer of the holding in respect of which the arrear is due,
- (e) by attachment of the estate or holding in respect of which the arrear is due,
- (f) by annulment of the assessment of that estate or holding,
- (g) by sale of that estate or holding
- (h) by proceedings against other immoveable property of the defaulter

68. A writ of demand may be issued by a Revenue-officer on or after the day following that on which an arrear of land revenue accrues

Writ of
demand,

69. (1) At any time after an arrear a Revenue-officer may issue a warrant therein to arrest the defaulter and bring him before the officer

of

(2) When the defaulter is brought before the Revenue-officer, the Revenue-officer may cause him to be taken before the Collector, or may keep him under personal restraint for a period not exceeding ten days and then if the arrear is still unpaid cause him to be taken before the Collector

(3) When the defaulter is brought before the Collector the Collector may issue an order to the officer in charge of the civil jail of the district directing him to confine the defaulter in the jail for such period not exceeding one month from the date of the order as the Collector thinks fit

(4) The process of arrest and detention shall not be executed against a defaulter who is a female a minor a lunatic or an idiot

70. (1) At any time after an arrear of land revenue has accrued the moveable property and uncut or ungathered crops of the defaulter may be distrained and sold by order of a Revenue-officer

Distress and
sale of move-
able prop-
erty and
crops.

(2) The distress and sale shall be conducted as nearly as may be in accordance with the law for the time being in force for the attachment and sale of moveable property under the decree of a Revenue Court constituted under the Punjab Tenancy Act 1887

Provided that in addition to the particulars exempted by that law from liability to sale so much of the produce of the land of the defaulter as the Collector thinks necessary for seed grain and for the subsistence until the harvest next following of the defaulter

and his family, and of any cattle exempted by that law, shall be exempted from sale under this section

Transfer of
holding

71 (1) At any time after an arrear of land revenue has accrued on a holding, the Collector may transfer the holding to any person being a land owner of the estate in which this holding is situate and not being a defaulter in respect of his own holding, on condition of his paying the arrear before being put in possession of the holding, and on such further conditions as the Collector may see fit to prescribe

(2) The transfer may, as the Collector thinks fit, be either till the end of the agricultural year in which the defaulter pays to the transferee the amount of the arrear which the transferee paid before being put in possession of the holding, or for a term not exceeding fifteen years from the commencement of the agricultural year next following the date of the transfer

(3) The Collector shall report to the Financial Commissioner any transfer made by him under this section, and the Financial Commissioner may set aside the transfer or alter the conditions thereof, or pass such other order as he thinks fit

(4) A transfer under this section shall not affect the joint and several liability of the land owners of the estate in which it is enforced

(5) In respect of all rights and liabilities arising under this Act the person to whom the holding is transferred shall, subject to the conditions of the transfer stand in the same position as that in which the defaulter would have stood if the holding had not been transferred

(6) When the transfer was for a term the holding shall, on the expiration of the term, be restored by the Collector to the defaulter free of any claim on the part of the Government or the transferee for any arrear of land revenue or rates and cesses due in respect thereof

Attachment
of estate or
holding

72 (1) At any time after an arrear of land revenue has accrued the Collector may cause the estate or holding in respect of which the arrear is due to be attached and taken under his own management or that of an agent appointed by him for that purpose

(2) The Collector or the agent shall be bound by all the engagements which existed between the defaulter and his tenants, if any,
all rents and
the land to
the defaulter

(3) All surplus profits of the land attached beyond the cost of attachment and management and the amount necessary to meet the current demand for land revenue and rates and cesses shall be applied in discharge of the arrear

(4) Land shall not be attached for the same arrear for a longer term than five years from the commencement of the agricultural year next following the date of the attachment, but, if the arrear is

sooner discharged the land shall be released and the surplus receipts, if any, made over to the land-owner.

73. (1) When an arrear of land revenue has been due for a longer period than one month, and the foregoing processes are not deemed sufficient for the recovery thereof, the Financial Commissioner may, in addition to or instead of all or any of those processes, order the existing assessment of the estate or holding in respect of which the arrear is due to be annulled. Annulment of assessment of estate or holding

(2) The provisions of this section shall not be put in force for the recovery of an arrear of land-revenue which has accrued on land—

(a) while under attachment under the last foregoing section,

or

(b) while under the charge of the Court of Wards.

(3) When the assessment of any land has been annulled, the Collector may, with the previous sanction of the Financial Commissioner, either manage the land himself or through an agent, or let it in farm to any person willing to accept the farm for such term and on such conditions as may be sanctioned by the Financial Commissioner.

Provided that the term for which land may be so managed or farmed shall not be longer than fifteen years from the commencement of the agricultural year next following the date of the annulment.

(4) At some time before the expiration of that term the Collector shall determine the assessment to be paid in respect of the estate or holding for the remainder of the term of the current assessment of the district or tahsil, and, when that assessment has been sanctioned by the Financial Commissioner, shall announce it to the land owner.

(5) The land owner may give notice to the Collector of refusal to be liable for the assessment within thirty days from the date on which the assessment was announced to him.

(6) If notice is so given, the Collector may, with the previous sanction of the Financial Commissioner, take the estate or holding under direct management or farm it for the remainder of the term of the current assessment of the district or tahsil, or for any period within that term which the Financial Commissioner may fix.

(7) When the assessment of a holding is annulled, the joint responsibility of the other land owners of the estate for the land revenue of that holding becoming due after the annulment shall be in abeyance until a new assessment takes effect.

(8) The Financial Commissioner may direct that any contract made by the defaulter, or by any person through whom the defaulter claims, with respect to any land comprised in an estate or holding of which the assessment has been annulled, shall not be binding on the Collector or his agent or farmer during the period for which the estate or holding remains under the management of the Collector or his agent or is let in farm.

and his family, and of any cattle exempted by that law, shall be exempted from sale under this section

Transfer of
holding

71 (1) At any time after an arrear of land revenue has accrued on a holding, the Collector may transfer the holding to any person being a land owner of the estate in which this holding is situate and not being a defaulter in respect of his own holding, on condition of his paying the arrear before being put in possession of the holding, and on such further conditions as the Collector may see fit to prescribe

(2) The transfer may, as the Collector thinks fit, be either till the end of the agricultural year in which the defaulter pays to the transferee the amount of the arrear which the transferee paid before being put in possession of the holding, or for a term not exceeding fifteen years from the commencement of the agricultural year next following the date of the transfer

(3) The Collector shall report to the Financial Commissioner any transfer made by him under this section, and the Financial Commissioner may set aside the transfer or alter the conditions thereof, or pass such other order as he thinks fit

(4) A transfer under this section shall not affect the joint and several liability of the land owners of the estate in which it is enforced

(5) In respect of all rights and liabilities arising under this Act the person to whom the holding is transferred shall subject to the conditions of the transfer, stand in the same position as that in which the defaulter would have stood if the holding had not been transferred

(6) When the transfer was for a term the holding shall, on the expiration of the term, be restored by the Collector to the defaulter free of any claim on the part of the Government or the transferee for any arrear of land revenue or rates and cesses due in respect thereof

Attachment
of estate or
holding

72. (1) At any time after an arrear of land revenue has accrued the Collector may cause the estate or holding in respect of which the arrear is due to be attached and taken under his own management or that of an agent appointed by him for that purpose

(2) The Collector or the agent shall be bound by all the engagements which existed between the defaulter and his tenants, if any, and shall be entitled to receive all rents and profits from the land until the land is restored to the defaulter

(3) All surplus profits of the land attached beyond the cost of the amount necessary to meet the interest on the arrear and rates and cesses shall be

(4) Land shall not be attached for the same arrear for a longer term than five years from the commencement of the agricultural year next following the date of the attachment, but if the arrear is

sooner discharged the land shall be released and the surplus receipts, if any, made over to the land-owner

73. (1) When an arrear of land revenue has been due for a longer period than one month, and the foregoing processes are not deemed sufficient for the recovery thereof, the Financial Commissioner may, in addition to or instead of all or any of those processes, order the existing assessment of the estate or holding in respect of which the arrear is due to be annulled

Annulment of
assessment of
estate or
holding

(2) The provisions of this section shall not be put in force for the recovery of an arrear of land revenue which has accrued on land—

(a) while under attachment under the last foregoing section,
or

(b) while under the charge of the Court of Wards

(3) When the assessment of any land has been annulled, the Collector may, with the previous sanction of the Financial Commissioner, either manage the land himself or through an agent or let it in farm to any person willing to accept the farm for such term and on such conditions as may be sanctioned by the Financial Commissioner

Provided that the term for which land may be so managed or farmed shall not be longer than fifteen years from the commencement of the agricultural year next following the date of the annulment

(4) At some time before the expiration of that term the Collector shall determine the assessment to be paid in respect of the estate or holding for the remainder of the term of the current assessment of the district or tahsil and, when that assessment has been sanctioned by the Financial Commissioner, shall announce it to the land-owner

(5) The land owner may give notice to the Collector of refusal to be liable for the assessment within thirty days from the date on which the assessment was announced to him

(6) If notice is so given, the Collector may, with the previous sanction of the Financial Commissioner, take the estate or holding under direct management or farm it for the remainder of the term of the current assessment of the district or tahsil, or for any period within that term which the Financial Commissioner may fix

(7) When the assessment of a holding is annulled, the joint responsibility of the other land owners of the estate for the land revenue of that holding becoming due after the annulment shall be in abeyance until a new assessment takes effect

(8) The Financial Commissioner may direct that any contract made by the defaulter, or by any person through whom the defaulter claims, with respect to any land comprised in an estate or holding of which the assessment has been annulled, shall not be binding on the Collector or his agent or farmer during the period for which the estate or holding remains under the management of the Collector or his agent or is let in farm

Proclamation of attachment or annulment of assessment and consequence of the proclamation.

74. (1) When any land is attached under section 72, or when the assessment of any land has been annulled under the last foregoing section, the Collector shall make proclamation thereof

(2) No payment made by any person to the defaulter before the making of the proclamation on account of rent or any other asset in anticipation of the usual time for the payment shall, without the special sanction of the Collector, be credited to that person or relieve him from liability to make the payment to the Collector or his agent or farmer

(3) No payment made after the making of the proclamation on account of rent or any other asset of the estate or holding to any person other than the Collector or his agent or farmer shall be credited to the person making the payment or relieve him from liability to make the payment to the Collector or his agent or farmer

Sale of estate or holding

75. When an arrear of land-revenue has accrued and the foregoing processes are not deemed sufficient for the recovery thereof, the Collector, with the previous sanction of the Financial Commissioner, may, in addition to, or instead of, all or any of those processes, and subject to the provisions hereinafter contained, sell the estate or holding in respect of which the arrear is due

Provided that land shall not be sold for the recovery of—

- (a) any arrear which has accrued while the land was under the charge of the Court of Wards, or was so circumstanced that the Court of Wards might have exercised jurisdiction over it under the provisions of section 35 of the Punjab Laws Act, 1872, clause (a), (b), (c), IV of or (d), or
- (b) any arrear which has accrued while the land was under attachment under section 72 of this Act or
- (c) any arrear which has accrued while the land was held under direct management by the Collector or in farm by any other person, under section 73, after either an annulment of assessment or a refusal to be liable therefor

Effect of sale on incumbrances.

76 (1) Land sold under the last foregoing section shall be sold free of all incumbrances, and all grants and contracts previously made by any person other than the purchaser in respect of the land shall become void as against the purchaser at the sale

(2) Nothing in sub section (1) shall affect—

- (a) a tenant's right of occupancy, unless the right was created by the defaulter himself, or
- (b) any lease at a fair rent, temporary or perpetual, for the erection of a dwelling-house or manufactory, or for a mine, garden, tank, canal, place of worship, or burial-ground, so long as the land continues to be used for the purpose specified in the lease or
- (c) any incumbrance, grant contract or right of occupancy specially saved by order of the Financial Commissioner and proclaimed as hereinafter provided

77. (1) If the arrear cannot be recovered by any of the Proceedings against other able ter

visions of this Act against that property as if it were the land in respect of which the arrear is due

Provided that no interests save those of the defaulter alone shall be so proceeded against, and no incumbrances created, grants made or contracts entered into by him in good faith shall be rendered invalid by reason only of his interests being proceeded against

(2) When the Collector determines to proceed under this section against immoveable property other than the land in respect of which the arrear is due, he shall issue a proclamation prohibiting the transfer or charging of the property

(3) The Collector may at any time by order in writing withdraw the proclamation and it shall be deemed to be withdrawn when either the arrear has been paid or the interests of the defaulter in the property have been sold for the recovery of the arrear

(4) Any private alienation of the property, or of any interest of the defaulter therein, whether by sale, gift, mortgage or otherwise made after the issue of the proclamation and before the withdrawal thereof shall be void

(5) In proceeding against property under this section the Collector shall follow, as nearly as the nature of the property will admit, the procedure prescribed for the enforcement of process against land on which an arrear of land-revenue is due

78. (1) Notwithstanding anything in section 66, when proceedings are taken under this Act for the recovery of an arrear the person against whom the proceedings are taken may, if he denies his liability for the arrear or any part thereof and pays the same under protest made in writing at the time of payment and signed by him or his agent institute a suit in a Civil Court for the recovery of the amount so paid Remedies open to person denying his liability for an arrear,

(2) A suit under sub section (1) must be instituted in a Court having jurisdiction in the place where the office of the Collector of the district in which the arrear or some part thereof accrued is situate

Procedure in Sales

79. (1) On the receipt of the sanction of the Financial Commissioner to the sale of any immoveable property, the Collector shall issue a proclamation of the intended sale specifying— Proclamation of sale.

(a) the date time and place of the sale

(b) the property to be sold and if it is an estate or holding the land revenue assessed thereon or payable in respect thereof,

(c) if the property is to be sold for the recovery of an arrear due in respect thereof, the incumbrances, grants, contracts, and rights of occupancy, if any, specially saved by order of the Financial Commissioner under section 76, sub section (2), clause (c),

(d) if the property is to be sold otherwise than for the recovery of an arrear due in respect thereof any incumbrance, grant or contract to which the property is known to be liable, and

(e) the amount for the recovery of which the sale is ordered

(2) *Repealed by Punjab Act II of 1905*

(3) The place of sale specified under clause (a), sub-section (1), must be either the office of the Collector or some place appointed by the Collector in this behalf and situate in or near the property to be sold

Indemnity to
Revenue
officer with
respect to
contents of
proclamation
Publication of
proclamation

80. A Revenue officer shall not be answerable for any error, mis statement or omission in any proclamation under the last foregoing section, unless the same has been committed or made dishonestly

81. (1) A copy of the proclamation shall be served on the defaulter and be posted in a conspicuous part of the office of the Tahsildar of the tahsil in which the property to be sold is situate

(2) After a copy of the proclamation has been served on the defaulter and posted in the office of the Tahsildar, a copy thereof shall be posted in the office of the Collector

(3) The proclamation shall be further published in manner prescribed in section 22 and in such other manner as the Collector thinks expedient

Time and
conduct of
sale

82. (1) The sale shall not take place on a Sunday or other holiday, or till after the expiration of at least thirty days from the date on which the copy of the proclamation was posted in the office of the Collector

(2) The sale shall be by public auction and shall be conducted either by the Collector in person or by a Revenue officer specially appointed by him in this behalf

Power to
postpone sale

83. The Collector may from time to time postpone the sale

Stay of sale.

84. If at any time before the bidding at the auction is completed the defaulter pays the arrear in respect of which the property has been proclaimed for sale together with the costs incurred for the recovery thereof, to the officer conducting the sale, or proves to the satisfaction of that officer that he has already paid the same either at the place and in the manner prescribed under section 63 or into the Government treasury, the sale shall be stayed

85. When the highest bid at the auction has been ascertained, the person who made that bid shall, on the requisition of the officer conducting the sale, pay to that officer a deposit of twenty five per centum on the amount of his bid, and shall, on payment thereof, be declared to be the purchaser subject to the provisions of this Chapter with respect to the exercise of any right of pre-emption

Payment of deposit by highest bidder

86. If the person who made the highest bid fails to pay the deposit as required by the last foregoing section, the property shall forthwith be put up again and sold, and all expenses attending the first sale, and the deficiency of price, if any, which may happen on the re-sale may be recovered from him by the Collector as if the same were an arrear of land-revenue

Consequences of failure to pay deposit

87. *Repealed*—vide schedule annexed to Punjab Pre-emption Act, 11 of 1905

88. The full amount of the purchase money shall be paid by the purchaser before the close of the fifteenth day from that on which the purchaser was declared

Time for payment in full

89. In default of payment of the full amount of the purchase-money within the period mentioned in the last foregoing section, the deposit referred to in section 85 or section 87, as the case may be, shall, after defraying the expenses of the sale, be forfeited to the Government and may, if the Collector, with the previous sanction of the Commissioner, so directs, be applied in reduction of the arrear, and the property shall be re-sold, and the defaulting purchaser shall have no claim to the property or to any part of the sum for which it may subsequently be sold

Procedure in default of payment

90. Every sale of immovable property under this Chapter shall be reported by the Collector to the Commissioner

Report of sale to Commissioner

91. (1) At any time within thirty days from the date of the sale, application may be made to the Commissioner to set aside the sale on the ground of some material irregularity or mistake in publishing or conducting it,

Application to set aside sale

(2) But a sale shall not be set aside on that ground unless the applicant proves to the satisfaction of the Commissioner that he has sustained substantial injury by reason of the irregularity or mistake

92. (1) After the expiration of thirty days from the date of the sale, if such application as is mentioned in the last foregoing section has not been made, or if such application has been made and rejected, the Commissioner shall make an order confirming the sale, and if such application has been made and allowed the Commissioner shall make an order setting aside the sale

Order confirming or setting aside sale

(2) An order made under this section shall be final

Refund of
purchase
money on
setting aside
of sale
Proclamation
after post-
ponement or
on re sale.

93. Whenever the sale of any property is set aside, the purchaser shall be entitled to receive back his purchase money.

94. A sale made after a postponement under section 83, and a re sale consequent on a purchaser's default under section 89 or on the setting aside of a sale under section 92, shall be made after the issue of a fresh proclamation in the manner hereinbefore prescribed for the sale

On confirm-
ation of sale
possession
and certificate
to be granted
to purchaser

95. (1) After a sale has been confirmed in manner aforesaid the Collector shall put the person declared to be the purchaser into possession of the property sold, and shall grant him a certificate to the effect that he has purchased that property

(2) The certificate shall state whether or not the property was sold for the recovery of an arrear due in respect thereof, and, if it was so sold, shall set forth the incumbrances, grants, contracts and rights of occupancy, if any, specified in the proclamation of the sale as specially saved by order of the Financial Commissioner under section 76, sub section (2), clause (c)

(3) The certificate shall be deemed to be a valid transfer of the property but need not be registered as a conveyance

(4) Any suit brought in any Court against the certified purchaser on the ground that the purchase was made on behalf of a person other than the certified purchaser shall be dismissed with costs

(5) The certified purchaser of any immoveable property shall be entitled to all rents and profits falling due in respect of the property after the date of the confirmation of the sale and be liable for all instalments of land revenue and rates and cesses falling due in respect thereof after that date

Proceeds of
sale

96. (1) When a sale of immoveable property under this Chapter has been confirmed, the proceeds of the sale shall be applied in the first place to the payment of any arrears, including costs incurred for the recovery thereof, due to the Government from the defaulter at the date of the confirmation of the sale, whether the arrears are of land revenue, or of sums recoverable as arrears of land revenue, and the surplus, if any shall be paid to the person whose property has been sold, or if the property sold was owned by more than one person, then to the owners either collectively or according to the amount of their recorded interests, as the Collector thinks fit

(2) The surplus shall not, except under an order of a Court, be paid to any creditor of a person whose property has been sold

(3) If the proceeds of the sale fall short of such arrears as are referred to in sub section (1), the balance remaining due from the defaulter may be recovered from him by further proceedings under this Chapter or by any other means authorized by law

CHAPTER VII

RECOVERY OF OTHER DEMANDS BY REVENUE OFFICERS

97. When a village-officer required by rules under section 28 to collect any land revenue or sum recoverable as an arrear of land revenue satisfies a Revenue officer that the revenue or sum has fallen due and has not been paid to him, the Revenue officer may, subject to any rules which the Financial Commissioner may make in this behalf, recover it as if it were an arrear of land revenue

Recovery of certain arrears through Revenue officer instead of by suit.

98. In addition to any sums recoverable as arrears of land-revenue under this Act or any other enactment for the time being in force, the following sums may be so recovered, namely —

Other sums recoverable as arrears of and revenue

(a) fees, fines costs and other charges, including the village-officers' cess payable under this Act,

(b) revenue due to the Government on account of pasture or other natural products of land or on account of mills, fisheries or natural products of water, or on account of other rights described in section 41 or section 42 in cases in which the revenue so due has not been included in the assessment of an estate,

(c) fees payable to district boards or local boards under section 33 of the Punjab District Boards Act 1883, for the use of or benefits derived from such works as are referred to in section 20, clauses (i) and (j), of that Act,

(d) sums leviable by or under the authority of the Government as water rates or on account of the maintenance or management of canals embankments or other irrigation works, not being sums recoverable as arrears of land revenue under any enactment for the time being in force, and

(e) sums payable to the Government by a person who is surety for the payment of any of the foregoing sums or of any other sum recoverable as an arrear of land-revenue

99. (1) The provisions of Chapter VI shall, with respect to any sum mentioned or referred to in this Chapter, apply, so far as they can be made applicable, as if the sum were an arrear of land-revenue and the person from whom, either as principal or as surety, it is due were a defaulter in respect of such an arrear

Application of Chapter VI to sums recoverable under this Chapter

(2) Unless any such sum is declared by any enactment for the time being in force to be recoverable as if it were an arrear of land revenue due in respect of the land charged therewith the provisions of section 77 shall apply under sub section (1) to the recovery thereof

CHAPTER VIII

SURVEYS AND BOUNDARIES

Powers of
Financial
Commissioner
to make rules
for demar-
cation of
boundaries
and erection
of survey
marks

Power of
Revenue
officers to
define bound-
aries

Power to fix
boundary
between
riverain
estates

Effect of
fixing a bound-
ary between
riverain es-
tates. Pro-
viso.

100. (1) The Financial Commissioner may make rules as to the manner in which the boundaries of all or any estates in any local area are to be demarcated and as to the survey marks to be erected within those estates

(2) Rules under this section may prescribe, among other matters, the form of survey marks and the material to be used in their construction

101. (1) A Revenue officer may, for the purpose of framing any record or making any assessment under this Act or on the application of any person interested define the limits of any estate, or of any holding, field or other portion of an estate and may, for the purpose of indicating those limits require survey-marks to be erected or repaired

(2) In defining the limits of any land under sub-section (1) the Revenue officer may cause survey marks to be erected on any boundary already determined by or by order of any Court Revenue officer or Forest settlement officer or restore any survey mark already set up by or by order of any Court or any such officer

*101-A. (1) When any two or more estates are subject to river action and the limits of any such estates are by any law or custom decree or order applicable thereto liable to vary according as variations may from time to time occur in the course or action of such river the Local Government may, ~~in the absence of~~ order a permanent boundary line to be fixed between any such estates or such portion thereof as are liable to river action

(2) Upon an order being made under sub-section (1) the Collector shall fix a boundary line between such estates or portions of such estates accordingly and shall demarcate the same in accordance with the rules (if any) made under section 100 and the provisions of section 101

(3) Every such boundary line shall be fixed with due regard to the history of the estates and the interests of the persons respectively owning them or possessing rights therein in such manner as may be just and equitable in the circumstances of each case

(4) No such boundary line shall be deemed to have been permanently fixed until it has been approved by the Financial Commissioner

101-B. (1) Every boundary line fixed in accordance with the provisions of section 101 A shall notwithstanding any law or custom or any decree or order of any court of law, to the contrary, be the fixed and constant boundary between the estates affected thereby and the proprietary and all other rights in every holding, field

* Section 101 A to 101 F were added by the Punjab Riverain Boundaries Act 1899 (I of 1899)

or other portion of an estate situate on each side of the boundary line so fixed, shall, subject to the following proviso, vest in the land-owners of the estate which lies on that side of the boundary line on which such holding, field or other portion of an estate is situate

Provided that if, by the operation of this section, the proprietary or any other rights in any land which at the time a boundary line is fixed is under cultivation, or reasonably fit for cultivation, or yields any produce of substantial value would be transferred from the land-owners and other right holders of any one estate to the land-owners of any other estate, the Collector shall, by written order, direct that the rights in such land shall subject to the provisions of section 101 C and section 101 D not be so transferred unless and until the land in respect of which any such order is made ceases to be reasonably fit for cultivation or to yield any produce of substantial value, and upon any such order being made the transfer of the rights in such land shall be suspended accordingly

Provided further that when any portion of the land specified in any such order ceases to be reasonably fit for cultivation or to yield any produce of substantial value the order shall when the Collector in writing so directs cease to operate as to that portion

(2) The decision of the Collector as to whether for the purposes of the proviso to sub section (1) of this section any land is or is not reasonably fit for cultivation or does or does not yield any produce of substantial value shall be final

101-C. (1) When any order has been made under the proviso to sub section (1) of section 101 B the land-owners (or any of them) in whom, but for such order, the rights in the land specified therein would vest may apply in writing to the Collector to forthwith transfer the rights the transfer of which has been suspended by such order upon payment of compensation for the same

Application for immediate transfer of rights reserved under the proviso to sub-section (1) of section 101 B upon payment of compensation, and procedure thereupon. Award of compensation and extinguishment of rights thereby

(2) When an application under sub section (1) is made the Collector shall—

- (a) fix a day for the hearing of the application,
- (b) cause notice of the application and of the day fixed for the hearing thereof, to be served on, or proclaimed for the information of, all persons recorded as having rights in the land specified in the order made under the proviso to sub-section (1) of section 101 B and all other persons interested or claiming to be interested therein,
- (c) upon the day so fixed for hearing, or any day to which the hearing may be adjourned, inquire into the rights in the land and award compensation in respect of all rights found established therein, to the persons severally entitled thereto,

(d) Inform the applicant of the aggregate amount of compensation so awarded and require him to deposit the amount with the Collector on or before a day to be fixed by him in that behalf

Provided that notwithstanding anything in this sub section contained, it shall be lawful for the Collector, in his discretion and at any time before an award of compensation thereon has been made, to reject any application made under sub section (1)

(3) In awarding compensation under sub section (2), the Collector shall be guided by the provisions of section 23 and section 24 of the Land Acquisition Act 1894, so far as the same may be applicable to the circumstances of the case

(4) Upon the fifteenth day of May next after the whole amount of compensation so awarded has been deposited with the Collector the order made under the proviso to sub section (1) of section 101 B, shall cease to operate and the rights specified therein shall be transferred and vest in the manner prescribed in sub section (1) of section 101 B notwithstanding anything in the proviso thereof contained, and the Collector shall proceed to tender the compensation to the persons severally entitled to receive the same under his award. If any such person shall refuse to accept the sum so awarded and tendered to him it shall be placed to his credit in the public treasury

(5) When any order made under the proviso to sub section (1) of section 101 B shall under the provisions of sub section (4) of this section cease to operate and determine all rights reserved to any person by such order shall be extinguished

Order under the proviso to sub section (1) of section 101 B to cease to apply to rights voluntarily transferred to a land owner of the estate to which the land is transferred by fixing boundary Rights transferred to be liable to all the incidents of tenure of the estate to which the transfer is made.

101-D When any person possessing any rights in any land in regard to the rights in which an order has been made under the proviso to sub section (1) of section 101 B voluntarily transfers such rights to any land owners of the estate in the land-owners of which but for such order such rights would vest under the operation of sub section (1) of section 101 B the rights so transferred shall forthwith cease to be subject to such order

101-E In every case in which by the operation of section 101 B or section 101 C or section 101 D rights in land are transferred from any one estate to the land rights shall be subject to all the incidents of tenure and liabilities which under any law or custom for the time being in force, apply to the rights of the land owners of the estate to which such rights are so transferred

101-F. For the purposes of sections 101 A, 101 B and 101 C, respectively, the expression "Collector" shall be deemed to include any Revenue-officer appointed by the Local Government to perform all or any of the functions of a Collector under any of the provisions thereof.

Meaning of the expression "Collector" in sections 101 A, 101 B and 101 C

102. Subject to any rules which the Financial Commissioner may make in this behalf, survey-marks shall be erected and kept in repair by or at the cost of the persons interested in the land for the indication of the limits of which they are required

Cost of erection and repair of survey marks

Provided that the Local Government may in any case direct that the cost of erection shall be borne by the Government or be paid out of the proceeds of the village-officers' cess

103. (1) If the persons interested in the land fail to erect or repair a survey-mark within thirty days from the date of their being required by a Revenue-officer to do so, the Revenue-officer may cause it to be erected or repaired

Recovery of cost incurred by the Government

(2) Where the Revenue-officer causes a survey-mark to be erected or repaired, he shall, subject to any rules or direction under the last foregoing section, apportion the cost among the persons interested in the land in such manner as he deems just and certify the same to the Collector

(3) The Collector may recover the cost as if it were an arrear of land revenue

104 Any Revenue-officer, and any person acting under the orders of a Revenue-officer, may, in the discharge of any duty under this Act enter upon and survey land and erect survey-marks thereon and demarcate the boundaries thereof, and do all other acts necessary for the proper performance of that duty

Power of Revenue officers to enter on land for purposes of survey and demarcation

105. (1) When any land is being surveyed in pursuance of rules under section 46 clause (c), any survey may, by notice or proclamation rights or interests in the land to indicate by temporary marks of a kind to be described in the notice or proclamation the limits of those rights or interests

Surveys for

(2) If a person to whom the notice or proclamation is addressed fails to comply with the requisition, he shall be liable at the discretion of the Revenue officer to fine which may extend to ten rupees

106. (1) For the purposes of the survey of any land in pursuance of rules under section 46, clause (c), the land-owners shall be bound to provide fit persons to act as flagholders and chainmen

Provision of flagholders and chainmen for those surveys

(2) If the land-owners fail to provide such persons or to provide them in sufficient number, such other persons as a Revenue-officer considers necessary may be employed and the cost of employing them recovered from the land-owners as if it were an arrear of land revenue

Provisional
orders

107. (1) If it is necessary to make a survey by other agency than that of Revenue-officers or village-officers, the Local Government may publish a notification stating—

- (a) the local area to be surveyed and the nature of the survey;
- (b) the names or official designation of the officers by whom the survey is to be made; and
- (c) the kind of survey marks to be erected by those officers.

(2) From the date of the notification the officers specified therein and the persons acting under their orders shall have for the purposes of the survey the powers conferred on Revenue-officers by section 104.

Penalty for
destruction
injury or re-
moval of sur-
vey marks.

108. (1) If any person wilfully destroys or injures or without lawful authority removes a survey-mark lawfully erected, he may be ordered by a Revenue-officer to pay such fine not exceeding fifty rupees for each mark so destroyed, injured or removed as may, in the opinion of the Revenue-officer, be necessary to defray the expense of restoring the same and of rewarding the person if any who give information of the destruction injury or removal.

(2) The imposition of a fine under this section shall not be a prosecution under section 434 of the Indian Penal Code.

Report of
destruction
or removal of
injury
to survey
marks.

109. Every village-officer of an estate shall be legally bound to furnish a Revenue-officer with information respecting the destruction or removal of, or any injury done to, any survey-mark lawfully erected in the estate.

CHAPTER IX.

PARTITION.

Effect of par-
titions of
estates and
tenancy on
joint liability
for revenue,
and rent.

110. (1) A partition of land, either under this Chapter or otherwise, shall not without the express consent of the Financial Commissioner, affect the joint liability of the land or of the land-owners thereof for the revenue payable in respect of the land, or operate to create a new estate, and, if any conditions are attached to that consent, those conditions shall be binding on the parties to the partition.

(2) A partition of a tenancy shall not, without the express consent of the landlord, affect the joint liability of the co-sharers therein for the payment of the rent thereof.

Application
for partition.

111. Any joint owner of land, or any joint tenant of a tenancy in which a right of occupancy subsists, may apply to a Revenue-officer for partition of his share in the land or tenancy, as the case may be, if—

- (a) at the date of the application the share is recorded under Chapter IV as belonging to him, or
- (b) his right to the share has been established by a decree which is still subsisting at that date, or

(c) a written acknowledgment of that right has been executed by all persons interested in the admission or denial thereof

112. Notwithstanding anything in the last foregoing section—

Restrictions and limitations on partition.

(1) places of worship and burial grounds held in common before partition shall continue to be so held after partition, unless the parties otherwise agree among themselves and record their agreement and file it with the Revenue officer,

(2) partition of any of the following properties, namely —

(a) any embankment, water course, well or tank, and any land on which the supply of water to any such work may depend,

(b) any grazing ground, and

(c) any land which is occupied as the site of a town or village and is liable to land revenue,

may be refused if, in the opinion of the Revenue officer, the partition of such property is likely to cause inconvenience to the co-sharers or other persons directly or indirectly interested therein or to diminish the utility thereof to those persons

(3) the fact that a partition on the application of a joint owner of land would render necessary the severance into two or more parts of the land comprised in the tenancy of a tenant having a right of occupancy may, unless the tenant assents to the severance, be a sufficient reason for the disallowance of the partition in so far as it would affect that tenancy, and

(4) the fact that the landlord objects to the partition of a tenancy may be sufficient reason for the absolute disallowance of the partition thereof

113. The Revenue officer, on receiving the application under section 111, shall, if it is in order and not open to objection on the face of it, fix a day for the hearing thereof and—

Notice of application for partition.

(a) cause notice of the application and of the day so fixed to be served on such of the recorded co-sharers as have not joined in the application, and, if the share of which partition is applied for is a share in a tenancy, on the landlord also, and

(b) if he thinks fit, cause the notice to be served on, or proclaimed for the information of, any other persons whom he may deem to be directly or indirectly interested in the application

114. On the day fixed for the hearing or on any day to which the hearing may be adjourned, the Revenue officer shall ascertain whether any of the other co-sharers desire the partition of their shares also, and if any of them so desire, he shall add them as applicants for partition

Addition of parties to application.

Absolute dis-
allowance of
partition

115. After examining such of the co sharers and other persons as may be present on that day, the Revenue-officer may, if he is of opinion that there is good and sufficient cause why partition should be absolutely disallowed, refuse the application, recording the grounds of his refusal

Procedure
on admission
of applica-
tion

116. If the Revenue-officer does not refuse the application under the last foregoing section, he shall ascertain the questions, if any, in dispute between any of the persons interested distinguishing between—

- (a) questions as to title in the property of which partition is sought, and
- (b) questions as to the property to be divided, or the mode of making the partition

Disposal of
questions as
to title in
property to
be divided.

117. (1) When there is a question as to title in any of the property of which partition is sought, the Revenue-officer may decline to grant the application for partition until the question has been determined by a competent Court, or he may himself proceed to determine the question as though he were such a Court

(2) Where the Revenue-officer himself proceeds to determine the question, the following rules shall apply, namely —

- (a) If the question is one over which a Revenue Court has jurisdiction, the Revenue officer shall proceed as a Revenue Court under the provisions of the Punjab Tenancy Act, 1887
- (b) If the question is one over which a Civil Court has jurisdiction, the procedure of the Revenue-officer shall be that applicable to the trial of an original suit by a Civil Court, and he shall record a judgment and decree containing the particulars required by the Code of Civil Procedure to be specified therein
- (c) An appeal shall lie from the decree of the Revenue-officer under clause (b) as though that decree were a decree of a *Subordinate Judge* in an original suit
- (d) Upon such an appeal being made, the *District Court* or *High Court*, as the case may be, may issue an injunction to the Revenue-officer requiring him to stay proceedings pending the disposal of the appeal
- (e) From the appellate decree of a *District Court* upon such an appeal, a further appeal shall lie to the *High Court* if such a further appeal is allowed by the law for the time being in force

Disposal of
other
questions

118. (1) When there is a question as to the property to be divided, or the mode of making a partition, the Revenue-officer shall, after such inquiry as he deems necessary, record an order stating his decision on the question and his reasons for the decision

(2) An appeal may be preferred from an order under sub section (1) within fifteen days from the date thereof, and, when such an appeal is preferred and the institution thereof has been certified to the Revenue-officer by the authority to whom the appeal has been preferred the Revenue-officer shall stay proceedings pending the disposal of the appeal

(3) If an applicant for partition is dissatisfied with an original or appellate order under this section, and applies for permission to withdraw from the proceedings in so far as they relate to the partition of his shares, he shall be permitted to withdraw therefrom on such terms as the Revenue-officer thinks fit

(4) When an applicant withdraws under the last foregoing sub section, the Revenue-officer may, where the other applicants, if any, desire the continuance of the proceedings, continue them in so far as they relate to the partition of the shares of those other applicants

119. When any such property as is referred to in section 112, Administration of property excluded from partition clause (2), is excluded from partition, the Revenue officer may determine the extent and manner to and in which the co sharers and other persons interested therein may make use thereof, and the proportion in which expenditure incurred thereon and profits derived therefrom respectively, are to be borne by and divided among those persons or any of them

120. (1) The amount of revenue to be paid in respect of each Distribution of revenue and rent after partition of the holdings into which land has been divided on a partition, and the amount of rent to be paid in respect of each of the portions into which a tenancy has been so divided shall be determined by the Revenue officer making the partition

(2) The determination of the Revenue officer as to the revenue to be paid in respect of each holding shall where the estate in which the holding is situate is subject to a fixed assessment, be deemed to be an order under section 56 sub section (1)

(3) Where new estates have been created at a partition and the land revenue has been fraudulently or erroneously distributed among them the Local Government may within twelve years from the time of discovery of the fraud or error order a new distribution of the land revenue among the several estates on an estimate of the assets of each estate at the time of the partition, to be made conformably to the best evidence and information procurable respecting the same

121. When a partition is completed, the Revenue-officer shall cause an instrument of partition to be prepared, and the date on which the partition is to take effect to be recorded therein Instrument of partition.

122. An owner or tenant to whom any land or portion of a tenancy, as the case may be, is allotted in proceedings for partition shall be entitled to possession thereof as against the other parties to the proceedings and their legal representatives, and a Revenue-officer shall on application made to him for the purpose by any Delivery of possession of property allotted on partition.

such owner or tenant at any time within three years from the date recorded in the instrument of partition under the last foregoing section, give effect to that instrument so far as it concerns the applicant as if it were a decree for immovable property

Affirmation
of partitions
privately
effected.

123. (1) In any case in which a partition has been made without the intervention of a Revenue officer, any party thereto may apply to a Revenue-officer for an order affirming the partition

(2) On receiving the application the Revenue-officer shall inquire into the case and, if he finds that the partition has in fact been made, he may make an order affirming it and proceed under sections 119 120 121 and 122, or any of those sections, as circumstances may require, in the same manner as if the partition had been made on an application to himself under this Chapter

Power to
make rules
as to costs of
partitions.

124. The Financial Commissioner may make rules for determining the costs of partitions under this Chapter and the mode in which such costs are to be apportioned

Re-distribu-
tion of land
according to
custom.

125. When by established custom any land in an estate is subject to periodical redistribution a Revenue officer may, on the application of any of the land owners enforce the redistribution according to the custom and for this purpose may exercise all or any of the powers of a Revenue officer in proceedings for partition

Officers who
may be
empowered
to act under
this Chapter

126. The Revenue officer by whom proceedings may be taken under this Chapter shall be a Revenue-officer of a class not below that of Assistant Collector of the first grade

CHAPTER V

ARBITRATION

Power to
refer to
arbitration.

127. (1) Any Revenue officer may with the consent of the parties refer to arbitration any dispute arising before him in any matter under this Act

(2) A Collector or any Assistant Collector of the first grade may, without the consent of the parties refer to arbitration any dispute before him with respect to—

(a) any matter of which an entry is to be made in any record or register under Chapter IV,

(b) any matter relating to the distribution of an assessment under section 56

(c) the limits of any estate or of any holding, field or other portion of an estate or

(d) the property to be divided at a partition or the mode of making a partition

Order of
reference and
contents
thereof

128. (1) In referring a dispute to arbitration a Revenue officer shall make an order of reference and specify therein the precise matter submitted to arbitration the number of arbitrators which each party to the dispute is to nominate the period within which arbitrators are to be nominated and the period within which the award is to be delivered

(2) The number of arbitrators which each party may nominate must be the same and must not exceed two.

(3) If from any cause arbitrators are not nominated, or an award is not delivered, within the period fixed therefor in the order of reference, the Revenue-officer may from time to time enlarge that period, or may cancel the order of reference.

129. (1) When an order of reference has been made, the parties may each nominate the number of arbitrators specified in the order, and the Revenue-officer shall nominate one other arbitrator. Nomination of arbitrators.

(2) The Revenue-officer may, for reasons to be recorded by him: make an order disallowing any nomination made by either party and requiring the party to make another nomination within a time to be specified in the order.

(3) An order under the last foregoing sub-section shall be final.

130. If an arbitrator nominated by a party dies, desires to be discharged or refuses or becomes incapable to act, the party may nominate another person in his stead. Substitution of arbitrators by parties.

131. In any of the following cases, namely:—

(a) if either of the parties fails to nominate an arbitrator under sub-section (1) of section 129 within the period fixed in the order of reference, or

(b) if the nomination of an arbitrator has been disallowed under sub-section (2) of section 129, and another arbitrator is not nominated within the time specified in the order under that sub-section or having been so nominated, his nomination is also disallowed or

(c) if a party entitled to nominate an arbitrator in the place of another arbitrator under section 130 fails to nominate him within one week from the date of the communication to him of a notice requiring him to make the nomination, or

(d) if an arbitrator nominated by the Revenue-officer dies, desires to be discharged or refuses or becomes incapable to act

the Revenue-officer may nominate a person as arbitrator.

132. (1) The Revenue-officer shall, on the application of the parties, issue the same process to the parties and witnesses as the arbitrators desire to examine as he may have in any proceedings under this Act before himself. Process for appearance before arbitrators.

(2) Any such party or witness shall be bound to appear before the arbitrators in obedience to a process issued under sub-section (1) either in person or by agent, as the arbitrators may require.

The person attending in obedience to the process shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and

other things relating to any such matter as may be specified in the process

Award of arbitrators and presentatives thereof

133 (1) The arbitrators shall make an award in writing under their hands concerning the matters referred to them for arbitration, and state therein their reasons therefor, and any arbitrator dissenting from the award made by a majority of the arbitrators shall state the grounds of his dissent

(2) The arbitrators shall present the award to the Revenue officer in person unless that officer permits them to present it by agent

Procedure on presentation of award

134. (1) When the award has been received the Revenue officer shall if the parties are present consider forthwith any objections which they may have to make thereto and if they are not present fix a date for the consideration thereof

(2) Where a date has been fixed for the consideration of an award the Revenue-officer shall on that date or on any subsequent date to which an adjournment may be made hear any objections which the parties may have to make to the award

(3) The Revenue officer may also if he thinks fit question the arbitrators as to the grounds of their award

Effect of award.

135 (1) The Revenue officer may accept modify or reject the award recording his reasons for doing so in his decision respecting the dispute which was referred to arbitration

(2) An appeal shall lie from the decision as if arbitrators had not been appointed

CHAPTER XI

SPECIAL JURISDICTION WITH RESPECT TO LAND

Power to invest officers making records of rights or general re-assessments with powers of Civil Courts

136 (1) The Local Government may by order published in the official Gazette invest any Revenue-officer making or specially revising records of rights in any local area in pursuance of a notification under section 32 or making a general re-assessment of land revenue in any local area in pursuance of a notification under section 49 [or any Revenue-officer in a Colony] or any Revenue officer to whose control that officer is subject with all or any of the powers of any Court constituted under Punjab Courts Act 1884 for the purpose of trying all or any specified classes of suits or appeals relating to land arising in the local area

(2) The Local Government may cancel an order under sub-section (1) wholly or in part

(3) While an order or any part of an order under that sub-section continues in force the powers conferred thereby shall be exercised by the officer invested therewith and not otherwise

(4) Any cases pending before that officer under the order or a subsisting part of the order at the time of cancellation thereof may be disposed of by him as if the order or that part of it continued in force unless the Local Government directs as it is hereby em-

powered to do, that those cases shall be transferred for disposal to the Courts by which they would have been disposed of if the order had not been published.

137. (1) The Local Government may by notification direct that the provisions of this Act with respect to the superintendence and control over Revenue-officers shall, subject to any modification of those provisions which the Local Government thinks fit, apply to any Revenue-officer, except the Financial Commissioner, who has been invested with the powers of Civil Court of any of the classes specified in clauses (a), (b), (c) and (d) of section 17 of the Punjab Courts Act, 1884, and that appeal shall lie from his decrees and orders to, and his decrees and orders be subject to revision by, a Revenue-officer invested under the last foregoing section with the powers of a Court which would be competent under the Punjab Courts Act, 1884, to hear appeals from, or revise, such decrees and orders if they had been made by a Court with the powers of which the Revenue-officer who made them has been invested.

(2) In the absence of any such notification, a Revenue-officer invested under the last foregoing section with the powers of any such Civil Court as aforesaid shall, with respect to the exercise of those powers, be deemed to be such a Civil Court for the purposes of the Punjab Courts Act 1884.

CHAPTER XII

SUPPLEMENTARY PROVISIONS

Revenue Deposits

138. (1) In either of the following cases namely —

(a) when a headman or other land owner, or an assignee of land revenue, to whom any sum other than rent is payable on account of a liability under this Act, refuses to receive the sum from or to grant a receipt therefor to the person by whom it is payable,

(b) when the person by whom any such sum is payable is in doubt as to the headman or other land owner, or the assignee of land revenue, entitled to receive it

that person may apply to a Revenue-officer for leave to deposit the sum in his office, and the Revenue-officer shall receive the deposit if, after examining the applicant, he is satisfied that there is sufficient ground for the application and if the applicant pays the fee, if any, which may be chargeable on any notice to be issued of the receipt thereof.

(2) When a deposit has been so received, the liability of the depositor to the headman or other land-owner, or the assignee of land-revenue for the amount thereof shall be discharged.

Power to deposit certain sums other than rent.

Procedure
in case of
deposit on
account of a
payment due
to Govern-
ment.

139. If the deposit purports to be a payment due to the Government, it may be made on any other account shall

Procedure in
case of other
deposits

140. (1) A Revenue-officer may be made on any other account shall to every person who he has reason to believe is entitled to the same the deposit pending the decision of the Collector.

(2) No suit or other proceeding shall be brought in any Court of law, in respect of anything done by a Revenue-officer in the exercise of his powers under this section but nothing in this section shall prevent a person entitled to receive the amount covered by it from a person to whom it is due.

Execution of orders of Civil and Criminal Courts

Orders of
Civil and
Criminal
Courts for
execution of
processes
against land
or the pro-
duce thereof
to be address-
ed to a Revenue-officer

141. Orders issued by any Court for the attachment or sale or delivery of any land or the attachment or sale of the produce of any land to the Collector or such Revenue-officer as may be directed in this behalf and be executed by the Collector or such Revenue-officer in accordance with the provisions of the Act and with any rules made by the Financial Commissioner with the concurrence of the Local Government and the previous sanction of the Local Government.

Attachment
of assigned
land revenue.

142. (1) Notwithstanding anything in any other enactment in force at the time being in force an order issued by any Court for the attachment of assigned land-revenue shall require the person to whom the revenue is payable to pay it to the Collector, and the Collector to hold it subject to the further orders of the Court.

(2) A payment to the Collector under sub-section (1) shall constitute an effectual discharge to the person making it.

Preservation of attached Produce

Preservation
of attached
produce

143. (1) The attachment of the produce of any land in pursuance of an order of any Court or other authority shall not prevent the person to whom the produce belongs from reaping, gathering, storing it or doing any other act necessary for its preservation.

(2) The attaching officer shall do or cause to be done all such acts as may be necessary for the preservation of the produce of the land to which it belongs fails to do so.

(3) When sale of produce follows on its attachment, the purchaser shall be entitled by himself or by any person appointed

him in this behalf, to enter on the place where the produce is and do all that is necessary for the purpose of preserving and removing it

Division of Produce

144. In either of the following cases, namely —

Division of
produce.

- (a) where land revenue is paid by division or appraisement of the produce,
- (b) where a superior and an inferior land-owner, or two or more share-holders in a holding or tenancy, are jointly interested in any produce, and either or any of the land owners or tenants, as the case may be, desires the assistance of a Revenue officer for the purpose of dividing or appraising the produce,

1887 the provisions of the Punjab Tenancy Act, 1887, with respect to the division or appraisement of produce shall apply so far as they can be made applicable

Miscellaneous

145. (1) At any of the following times namely —

Village-
cesses

- (a) when a record of rights is being made or specially revised for an estate,
- (b) when the local area in which an estate is situate is being generally reassessed and before the assessment has been confirmed,
- (c) at any other time on an order made with respect to any estate by the Local Government,

a Revenue-officer shall prepare a list of village cesses if any, levied in the estate which have been generally or specially approved by the Local Government or the title to which has before the passing of this Act been judicially established

(2) *Repealed by Act XVII of 1896*

(3) The Local Government may impose on the collection of any village cess comprised in the list such conditions as to police or other establishments connected with the village market or fair in or on account of which the cess is levied as it thinks fit

of (4) The Local Government may declare whether any cess, contribution or due levied in an estate is or is not a village-cess

(5) A declaration of the Local Government under the last foregoing subsection shall be conclusive and shall not be liable to be questioned in any Court

146. Where a superior land-owner is entitled to receive in respect of any land from an inferior land-owner dues in kind or in cash of fluctuating quantity or amount the Collector may—

superior
land-own-
er's dues.

- (a) on the application of both land-owners or

(b) with the previous sanction of the Government

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Substitution
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land revenue

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in respect of which the landowner is in
default of a share of the cost of making the re-assessment as the
Financial Commissioner may determine to be just

Recovery of
cost of as
sessing
assigned
land revenue

148 (1) When land of which the land revenue has been assigned
in whole or in part is re-assessed the assignee shall be liable to
pay such a share of the cost of making the re-assessment as the
Financial Commissioner may determine to be just

(2) That share may be recovered by the Collector by deduction
of the amount thereof from the land revenue due to the assignee

Penalty for
failure to
attend
limits of
estate in
obedience to
order of
Revenue-
officers.

149 If a person required by a summons, notice order or pro-
clamation proceeding from a Revenue officer to attend at a certain
time and place within the limits of the estate in which he ordinarily
resides or in which he holds or cultivates land fails to comply with
the requisition, he shall be liable at the discretion of the Revenue-
officer to a fine which may extend to fifty rupees

Prevention of
encroachment
on common
lands.

150 (1) Where land which has been reserved for the
common purposes of the co sharers therein has been encroached on
by any co sharer, a Revenue officer may, on the application of any
other co sharer, eject the encroaching co sharer from the land and
by order proclaimed in manner mentioned in section 22 forbid re-
petition of the encroachment

(2) The proceedings of the Revenue-officer under sub section
(1) shall be subject to any decree or order which may be subsequent-
ly passed by any Court of competent jurisdiction

151. (1) Any record or paper which a village-officer is required by law, or by any rule under this Act, to prepare or keep shall be deemed to be the property of the Government.

Papers kept by village officers to be deemed public documents.

(2) A village-officer shall, with respect to any such record or paper in his custody, be deemed for the purposes of the Indian Evidence Act, 1872, to be a public officer having the custody of a public document which any person has a right to inspect

152 (1) A Revenue-officer may give and apportion the costs of any proceeding under this Act in any manner he thinks fit.

(2) But if he orders that the cost of any such proceeding shall not follow the event, he shall record his reasons for the order.

153 In the computation of the period for an appeal from, or an application for the review of, an order under this Act the limitation therefor shall be governed by the Indian Limitation Act, 1908.

Computation of periods limited for appeals and applications for review

154. (1) A Revenue-officer, or a person employed in a revenue office, shall not—

Restriction on Revenue-officer's bidding at auctions or trading

(a) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property which any Revenue-officer or Revenue-Court in the district in which he is employed has ordered to be sold, or,

(b) in contravention of any rules made by the Local Government in this behalf, engage in trade in that district.

(2) Nothing in sub-section (1) shall be deemed to preclude any person from becoming a member of a company incorporated under the Indian Companies Act, 1882, the Indian Companies Act, 1913, or other law

155. (1) The Financial Commissioner may, in addition to the other rules which may be made by him under this Act, make rules consistent with this Act and any other enactment for the time being in force—

Power to make rules

(a) fixing the number and amount of the instalments, and the times and places and the manner, by, at and in which any sum other than rent or land-revenue which is payable under this Act or of which a record has been made thereunder is to be paid;

(b) fixing the dates on which profits are to be divisible by headmen or other persons by whom they are realized on behalf of co-sharers;

(c) prescribing the fees to be charged for the service and execution of processes issued by Revenue-officers and Revenue Courts, the mode in which those fees are to be collected, the number of persons to be employed in the service and execution of those processes, and the remuneration and duties of those persons;

(d) regulating the procedure in cases where persons are entitled to inspect records of Revenue-officers or records or papers in the custody of village-officer-, or to obtain copies of the same, and prescribing the fees payable for searches and copies;

(e) prescribing forms for such books, entries, statistics and accounts as the Financial Commissioner thinks necessary to be kept, made or compiled in revenue-offices, or submitted to any authority;

(f) declaring what shall be the language of any of those offices and determining in what cases persons practising in those offices shall be permitted to address the presiding officers thereof in English, and

(g) generally for carrying out the purposes of this Act

(2) Until rules are made under clauses (a) and (b) of sub-section (1) the sums therein referred to shall be payable by the instalments at the times and places, and in the manner by, at and in which they are now payable

(3) Rules made by the Financial Commissioner under this or any other section of this Act shall not take effect until they have been sanctioned by the Local Government

IV of

156. The power to make any rules under this Act is subject to the condition of the rules being made after previous publication.

Rules to be made after previous publication.

All powers conferred by this Act on the Financial Commissioner may be exercised from time to time as occasion requires

Powers exercisable by the Financial Commissioner from time to time.

Exclusion of Jurisdiction of Civil Courts.

Exclusion of jurisdiction of Civil Courts in matters within the jurisdiction of Revenue-officers.

158. Except as otherwise provided by this Act—

(1) a Civil Court shall not have jurisdiction in any matter which the Local Government or a Revenue-officer is empowered by this Act to dispose of, or take cognizance of the manner in which the Local Government or any Revenue-officer exercises any powers vested in it or him by or under this Act; and in particular—

(2) a Civil Court shall not exercise jurisdiction over any of the following matters, namely:—

(i) any question as to the limits of any land which has been defined by a Revenue-officer as land to which this Act does or does not apply;

- (ii) any claim to compel the performance of any duties imposed by this Act or any other enactment for the time being in force on any Revenue-officer, as such;
- (iii) any claim to the office of kanungo, zaildar, maddar or village-officer, or in respect of any injury caused by exclusion from such office, or to compel the performance of the duties or a division of the emoluments thereof;

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.

CORRECTION SLIP NO. 169, DATED LAHORE, THE 15TH OCTOBER, 1938.

The Punjab Land Administration Acts, volume I.

The Punjab Land Revenue Act, XVII of 1887.

Section 158, page 57.

Sub-section (2), clause (vi).

In correction slip no. 56, dated the 14th September, 1937, insert the following in the margin :—

“ The Government of India (Adaptation of Indian Laws) Order, 1937.”

277 FC—3,500—25-10-38—SGPF Lahore.

- other revenue to be assessed under this Act, or any cess; charge or rate to be assessed on an estate or holding under this Act or any other enactment for the time being in force;
- (vi) any claim relating to the allowance to be received by a landowner who has given notice of his refusal to be liable for an assessment, or any claim connected with, or arising out of, any proceeding taken in consequence of the refusal of any person to be liable for an assessment under this Act;
- (vii) the formation of an estate out of waste-land;
- (viii) any claim to hold free of revenue any land, mills, fisheries or natural products of land or water;
- (ix) any claim connected with, or arising out of, the collection by the Government, or the enforcement by the Government of any process for the recovery of land-revenue or any sum recoverable as an arrear of land-revenue;

- (xv) any claim to set aside, on any ground other than fraud, a sale for the recovery of an arrear of land-revenue or any sum recoverable as an arrear of land revenue,
- (xvi) the amount of, or the liability of any person to pay any fees, fines, costs or other charges imposed under this Act,
- (xvii) any claim for partition of an estate, holding or tenancy, or any question connected with, or arising out of, proceedings for partition, not being a question as to title in any of the property of which partition is sought,
- (xviii) any question as to the allotment of land on the partition of an estate, holding or tenancy, or as to the distribution of land subject by established custom to periodical re-distribution, or as to the distribution of land-revenue on the partition of an estate or holding or on a periodical re distribution of land, or as to the distribution of rent on the partition of a tenancy,
- (xviii) (a) any question connected with or arising out of or ^{Panjs} relating to any proceedings for the determination of ^{I of I} boundaries of estates subject to river action under sections 101 A, 101 B, 101 C and 101 D, respectively of Chapter VIII;
- (xix) any claim to set aside or disturb a division or appraisement of produce confirmed or varied by a Revenue-officer under this Act,
- (xx) any question relating to the preparation of a list of village cesses or the imposition by the Local Government of conditions on the collection of such cesses,
- (xxi) any proceeding under this Act for the commutation of the dues of a superior landowner
- (xxii) any claim arising out of the enforcement of an agreement to render public service in lieu of paying land-revenue; or
- (xxiii) any claim arising out of the liability of an assignee of land revenue to pay a share of the cost of collecting or re-assessing such revenue or arising out of the liability of an assignee to pay out of assigned land-revenue, or of a person who would be liable for land-revenue if it had not been released, compounded for, or redeemed, to pay on the land-revenue for which he would, but for such release, composition or redemption be liable, such a percentage for the remuneration of a zaildar, inamdar, or village-officer as may be prescribed by rules for the time being in force under this Act

THE SCHEDULE.

(See section 2)

ENACTMENTS REPEALED.

Number and year.	Title or subject of enactment.	Extent of repeal.
1	2	3
Act XXI of 1836 ..	Creation of new Zilas ..	So much as has not been repealed.
Act VI of 1867 ..	To enable the Lieutenant-Governor of the Punjab to alter the limits of existing districts in any part of the territories under his Government.	The whole.
Act VII of 1870	The Court fees Act, 1870 .	In section 20, clause (1), the words "and Revenue," and the whole of section 23.
Act XXXIII of 1871 ..	The Punjab Land Revenue Act, 1871	The whole.
Act IV of 1872 .	The Punjab Laws Act, 1872	Section 21.
Act XVIII of 1884 ..	The Punjab Courts Act, 1884.	Chapter VI.
Regulation I of 1872 .	The Punjab Frontier Regulation, 1872.	Rules 26 to 46 (both inclusive) comprising sections G, H, I and K of the Hazara Settlement Rules

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THE REVENUE RECOVERY ACT, 1890.

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- 2 Definitions
- 3 Recovery of public demands by enforcement of process in other districts than those in which they become payable
- 4 Remedy available to persons denying liability to pay amount recovered under last foregoing section
- 5 Recovery by Collectors of sums recoverable as arrears of revenue by other public officers or by local authorities
- 6 Property liable to sale under this Act
- 7 Saving of local laws relating to revenue
- 8 Recovery in British India of certain public demands arising beyond British India

THE SCHEDULE

Remedy
available to
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Recovery by
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or authority in which the office or authori-
ty, proceed to recover the sum as if it were an arrear of land-
revenue which had accrued in his own district, and may send a
certificate of the amount to be recovered to the Collector of another
district under the foregoing provisions of this Act, as if the sum
were payable to himself.

Property
liable to sale
under this
Act.

6. (1) When the Collector of a district receives a certificate
under this Act, he may issue a proclamation prohibiting the trans-
fer or charging of any immovable property belonging to the de-
faulters in the district

(2) The Collector may at any time, by order in writing withdraw
the proclamation, and it shall be deemed to be withdrawn when
either the amount stated in the certificate has been recovered or the
property has been sold for the recovery of that amount.

(3) Any private alienation of the property or of any interest
of the defaulter therein, whether by sale, gift, mortgage or other-
wise, made after the issue of the proclamation and before the
withdrawal thereof, shall be void as against the ~~Collector~~, and
any person who may purchase the property at a sale held for the
recovery of the amount stated in the certificate.

(4) Subject to the foregoing provisions of this section, when
proceedings are taken against any immovable property under this
Act for the recovery of an amount stated in a certificate, the inter-
ests of the defaulter alone therein shall be so proceeded against,
and no incumbrances created, grants made or contracts entered into
by him in good faith shall be rendered invalid by reason only of
proceedings being taken against those interests.

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THE SCHEDULE—ENACTMENTS REPEALED.

ACT No. XVI OF 1887.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 22nd
September, 1887.)

~~AS AMENDED BY ACT XII OF 1891, ACT XIII OF 1900, PUNJAB
IV OF 1914. PUNJAB~~

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.

CORRECTION SLIP NO. 132, DATED LAHORE, THE 10TH OCTOBER,
1938.

The Punjab Land Administration Acts, volume I.

The Punjab Tenancy Act, XVI of 1887.

Page 7.

In correction slip no. 65, dated the 16th September, 1937, insert
the following in the margin:—

"The Government of India (Adaptation of Indian Laws) Order, 1937".

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.

CORRECTION SLIP NO. 133, DATED LAHORE, THE 10TH OCTOBER,
1938.

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The Punjab Tenancy Act, XVI of 1887.

Page 7.

In correction slip no. 61, dated the 16th September, 1937,
insert the following in the margin:—

"The Government of India (Adaptation of Indian Laws) Order, 1937".

the date on which it becomes payable.

(6) "tenant" means a person who holds land under another
person, and is, or but for special contract would be, liable to pay
rent for that land to that other person; but it does not include—

(a) an inferior land-owner, or

(b) a mortgagee of the rights of a land-owner, or

(c) a person to whom a holding has been transferred, or an estate or holding has been let in farm, under the Punjab Land Revenue Act, 1887, for the recovery of an arrear of land revenue or of a sum recoverable as such an arrear, or

(d) a person who takes from the ^{Crown} Government a lease of unoccupied land for the purpose of sub letting it

(6) "landlord" means a person under whom a tenant holds land, and to whom the tenant is or but for a special contract would be, liable to pay rent for that land

(7) "tenant" and "landlord" include the predecessors and successors in interest of a tenant and landlord respectively

(8) "tenancy" means a parcel of land held by a tenant of a landlord under one lease or one set of conditions

(9) "estate" "land owner" and "holding" have the meanings respectively assigned to those words in the Punjab Land Revenue Act 1887

(10) "land revenue" means land revenue assessed under any law for the time being in force or assessable under the Punjab Land Revenue Act, 1887, and includes—

(a) any rate imposed in respect of the increased value of land due to irrigation, and

(b) any sum payable in respect of land by way of quit rent or of commutation for se
a person to whom the
right to receive the payment

(11) "rates and cesses" means rates and cesses which are primarily payable by land owners and includes—

(a) Repealed by Act XII of 1891

(b) the local rate, if any payable under the Punjab District Boards Act, 1883, and any fee leviable under section 33 of that Act from land owners for the use of or benefits derived from such works as are referred to in section 20 clauses (i) and (j) of that Act

(c) any annual rate chargeable on owners of lands under section 59 of the Northern India Canal and Drainage Act, 1873

(d) the zamindari and village officers' cesses and

(e) sums payable on account of village expenses

(12) "village cess" includes any cess, contribution or due which is customarily leviable within an estate and is neither a payment for the use of private property or for personal service nor imposed by or under any enactment for the time being in force

(13) "village-officer" means a chief headman, headman or patwari

(14) "Revenue officer" or "Revenue Court" in any provision of this Act means a Revenue officer or Revenue Court having

authority under this Act to discharge the functions of a Revenue-officer or Revenue Court, as the case may be, under that provision

(15) "jagirdar" includes any person, other than a village-servant to whom the land revenue of any land has been assigned in whole or in part by the Government or by an officer of the Government

(16) "legal practitioner" means any legal practitioner within the meaning of the Legal Practitioners Act, 1879, except a mukhtar

(17) "agricultural year" means the year commencing on the sixteenth day of June, or on such other date as the Local Government may by notification appoint for any local area

(18) "notification" means a notification published by authority of the Local Government in the official Gazette and

(19) "improvement" means, with reference to a tenancy, any work which is suitable to the tenancy and consistent with the conditions on which it is held, by which the value of the tenancy has been and continues to be increased, and which, if not executed on the tenancy, is either executed directly for its benefit, or is after execution made directly beneficial to it

Explanation I—It includes among other things,—

- (a) the construction of wells and other works for the storage or supply of water for agricultural purposes,
- (b) the construction of works for drainage and for protection against floods,
- (c) the planting of trees, the reclaiming, enclosing, levelling and terracing of land for agricultural purposes and other works of a like nature,
- (d) the erection of buildings required for the more convenient or profitable cultivation of a tenancy, and
- (e) the renewal or reconstruction of any of the foregoing works, or such alterations therein, or additions thereto, as are not of the nature of mere repairs and as durably increase their value

But it does not include such clearances embankments, levellings, enclosures, temporary wells and water channels as are made by tenants in the ordinary course of cultivation and without any special expenditure or any other benefit accruing to land from the ordinary operations of husbandry

Explanation II—A work which benefits several tenancies may be deemed to be with respect to each of them an improvement,

Explanation III—A work executed by a tenant is not an improvement if it substantially diminishes the value of any other part of his landlord's property

(20) "Muqarraridar" means any person who holds land in the Attock district and who on the date of the commencement of the Punjab Tenancy (Amendment) Act, 1925 was recorded in the revenue records as muqarraridar in respect of such land or who,

after the said date, was so recorded with his consent and the consent of the proprietor of such land and includes the successors in interest of a muqarraridar

CHAPTER II

RIGHT OF OCCUPANCY

5. (1) A tenant—

- (a) who at the commencement of this Act has for more than two generations in the male line of descent through a grand father or grand uncle and for a period of not less than twenty years been occupying land paying no rent therefor beyond the amount of the land-revenue thereof and the rates and cesses for the time being chargeable thereon or
- (b) who having owned land, and having ceased to be land-owner thereof otherwise than by forfeiture to the Government or than by any voluntary act, has, since he ceased to be land owner, continuously occupied the land or
- (c) who in a village or estate in which he settled along with or was settled by the founder thereof as a cultivator therein occupied land on the twenty first day of October, 1868 and has continuously occupied the land since that date or
- (d) who being jagirdar of the estate or any part of the estate in which the land occupied by him is situate, has continuously occupied the land for not less than twenty years or having been such jagirdar occupied the land while he was jagirdar and has continuously occupied it for not less than twenty years

has a right of occupancy in the land so occupied unless in the case of a tenant belonging to the class specified in clause (c) the landlord proves that the tenant was settled on land previously cleared and brought under cultivation by or at the expense of, the founder

(2) If a tenant proves that he has continuously occupied land for thirty years and paid no rent therefor beyond the amount of the land revenue thereof and the rates and cesses for the time being chargeable thereon, it may be presumed that he has fulfilled the conditions of clause (a) of sub section (1)

(3) The words in that clause denoting natural relationship denote also relationship by adoption including therein the customary appointment of an heir and relationship by the usage of a religious community

Right of occupancy of other tenants recorded as having the right before passing of Punjab Tenancy Act, 1887-1888

6. A tenant recorded in a record of rights sanctioned by the Government before the twenty first day of October 1868 as a tenant having a right of occupancy in land which he has continuously occupied from the time of the preparation of that record, shall be deemed to have a right of occupancy in that land unless the contrary has been established by a decree of a competent Court in a suit instituted before the passing of this Act

7. If the tenant has voluntarily exchanged the land, or any portion of the land formerly occupied by him for other land belonging to the same landlord, the land taken in exchange shall be held to be subject to the same right of occupancy as that to which the land given in exchange would have been subject if the exchange had not taken place

Right of occupancy in land taken in exchange.

8. Nothing in the foregoing sections of this Chapter shall preclude any person from establishing a right of occupancy on any ground other than the grounds specified in those sections

Establishment of right of occupancy on grounds other than those expressly stated in Act

9. No tenant shall acquire a right of occupancy by mere lapse of time

Right of occupancy not to be acquired by mere lapse of time.

10. In the absence of a custom to the contrary no one of several joint owners of land shall acquire a right of occupancy under this chapter in land jointly owned by them

Right of occupancy not to be acquired by joint owner in land held in joint ownership.

11. Notwithstanding anything in the foregoing sections of this chapter, a tenant who immediately before the commencement of this Act has a right of occupancy in any land under an enactment specified in any line of the first column of the following table shall when this Act comes into force be held to have for all the purposes of this Act a right of occupancy in that land under the enactment specified in the same line of the second column of the table —

Continuance of existing occupancy-rights.

PUNJAB TENANCY ACT, 1868		THIS ACT		
FIRST COLUMN		SECOND COLUMN		
Section	Clause.	Section	Sub-section.	Clause.
5	(1)	5	(1)	(a)
5	(2)	5	(1)	(b)
5	(3)	5	(1)	(c)
5	(4)	5	(1)	(d)
6		6		
8	.	8		

CHAPTER III

RENT

Rents generally

Respective
rights of
landlord and
tenant in
produce

12. (1) The rent for the time being payable in respect of a tenancy shall be the first charge on the produce thereof.

(2) A tenant shall be entitled to tend, cut and harvest the produce of his tenancy in due course of husbandry without any interference on the part of his landlord.

(3) Except where rent is taken by division of the produce, the tenant shall be entitled to the exclusive possession of the produce.

(4) Where rent is taken by division of the produce—

(a) the tenant shall be entitled to the exclusive possession of the whole produce until it is divided,

(b) the landlord shall be entitled to be present at and take part in, the division of the produce, and

(c) when the produce has been divided, the landlord shall be entitled to the possession of his share thereof.

Commuta-
tion and ab-
rogation of
rent.

13. (1) Where rent is taken by any of the following methods, namely—

(a) by division or apportionment of the produce

(b) by rates fixed with reference to the nature of the crops grown

(c) by a rate on a recognised measure of area,

(d) by a rent in gross on the tenancy, or

(e) partly by one of the methods specified in clauses (a), (b) and (c) of this subsection and partly by another or others of them

one of those methods shall not be commuted in whole or in part into another without the consent of both landlord and tenant.

(2) In the absence of a contract or a decree or order of competent authority to the contrary a tenant who rent is taken by any of the methods specified in clauses (a), (b) and (c) of sub-section (1) or by the method specified in clause (d) of that subsection shall not be liable to pay for a tenancy rent at any higher rate, or of a higher amount as the case may be, than the rate or amount payable in respect of the tenancy for the preceding agricultural year.

Every landlord
and tenant
shall be liable
to pay the
rent of land
occupied

14. Any person in possession of land occupied without the consent of the landlord shall be liable to pay for the use or occupation of that land at the rate of rent payable in the preceding agricultural year, or if rent was not payable in that year at such rate as the Court may determine to be fair and equitable.

Each of the
persons who
are joint
landlords

15. When two or more persons are landlords of a tenant in respect of the same tenancy the tenant shall not be bound to pay part of the rent of his tenancy to one of the persons and part to another.

Produce rents

16. Where rent is taken by division or appraisement of the produce, if the tenant removes any portion of the produce at such a time or in such a manner as to prevent the due division or appraisement thereof, or deals therewith in a manner contrary to established usage, the produce may be deemed to have been as full as the fullest crop of the same description on similar land in the neighbourhood for that harvest

Presumption with respect to produce removed before division or appraisement

17. If either the landlord or the tenant neglects to attend, either personally or by agent, at the proper time for making the division or appraisement of the produce, or if there is a dispute about the division or appraisement, a Revenue officer may, on the application of either party, appoint such person as he thinks fit to be a referee to divide or appraise the produce,

Appointment of referee for division or appraisement

18. (1) When a Revenue officer appoints a referee under the last foregoing section he may, in his discretion give him instructions with respect to the association with himself of any other persons as assessors the number qualifications and selection of those assessors and the procedure to be followed in making the division or appraisement

Appointment of assessors and procedure of referee

(2) The referee so appointed shall make the division or appraisement in accordance with any instructions which he may have received from the Revenue officer under the last foregoing sub-section

(3) Before making the division or appraisement the referee shall give notice to the landlord and the tenant of the time and place at which the division or appraisement will be made but if either the landlord or the tenant fails to attend either personally or by agent the referee may proceed *ex parte*

(4) For the purpose of making the division or appraisement, the referee with his assessors if any may enter upon any land on which or into any building in which the produce is

19. (1) The result of the division or appraisement shall be recorded and signed by the referee, and the record shall be submitted to the Revenue officer

Procedure after division or appraisement.

(2) The Revenue officer shall consider the record, and, after such further inquiry if any as he may deem necessary, shall make an order either confirming or varying the division or appraisement

(3) The Revenue-officer shall also make such order as to the costs of the reference as he thinks fit

(4) The costs may include the remuneration of the referee and of the assessors if any, and may be levied from the applicant before the appointment of the referee subject to adjustment at the close of the proceedings

20. Where the rent of a tenant having a right of occupancy in any land is a share of the produce, or of the appraised value thereof with or without an addition in money or is paid according to rates fixed with reference to the nature of the crops grown, or

Enhancement of produce-rents of occupancy tenants.

is a rent in gross payable in kind, the tenant shall be entitled to occupy the land at that rent

Provided that, when the land or any part thereof previously not irrigated or flooded becomes irrigated or flooded, the rent payable in respect of the land or part may, subject to the provisions of this Act, be enhanced to the share or rates, or with reference to the rent in gross as the case may be, paid by tenants, having a similar right of occupancy, for irrigated or flooded land of a similar description and with similar advantages

Reduction of rents referred to in the last foregoing section.

21. When the land, or any part of the land, held by a tenant having a right of occupancy to whom the last foregoing section applies, ceases to be irrigated or flooded, the rent payable in respect of the land or part may be reduced to the share of rates, or with reference to the rent in gross, as the case may be, paid by tenants, having a similar right of occupancy, for unirrigated or unflooded land of a similar description and with similar advantages

Cash rents paid by tenants having right of occupancy

Enhancement of cash rents of occupancy tenants.

22. (1) Where a tenant having a right of occupancy pays his rent entirely by a cash rate on a recognized measure of area or by a cash rent in gross on his tenancy the rent may be enhanced on the ground that after deduction therefrom of the land-revenue of, and the rates and cesses chargeable on, the tenancy, it is—

- (a) if the tenant belongs to the class specified in clause (a) of sub section (1) of section 5, less than two annas per rupee of the amount of the land revenue,
- (b) if he belongs to any of the classes specified in clauses (b), (c) and (d) of that sub section, less than six annas per rupee of the amount of the land revenue,
- (c) if he belongs to the class specified in section 6, or if his right of occupancy is established under section 8 and his rent is not regulated by contract less than twelve annas per rupee of the amount of the land revenue

(2) In a case to which sub section (1) applies the rent may be enhanced to an amount not exceeding two, six or twelve annas per rupee of the amount of the land revenue, as the case may be, in addition to the amount of the land revenue of the tenancy and the rates and cesses chargeable thereon

(3) For the purposes of this section a muqarraridar shall be deemed to be a tenant of the class specified in clause (a) of sub section (1) of section 5

Reduction of rents referred to in the last foregoing section.

23 The rent payable by a tenant to whom the last foregoing section applies may be reduced on the ground that the productive powers of his tenancy have been decreased by a cause beyond his control

General provisions relating to suits for enhancement or reduction of rent.

24. (1) A Revenue Court, on the suit of either landlord or tenant, may, subject to the provisions of this and other sections of this Act, enhance or reduce the rent of any tenant having a right of occupancy Enhancement and reduction of rent by suit.

(2) Where a decree for the enhancement of the rent of such a tenant has been passed under the Punjab Tenancy Act, 1868, a suit for a further enhancement of his rent shall not lie till the expiration of five years from the date of the decree, unless in the meantime the local area in which the land comprised in the decree is situate has been generally reassessed and the revenue payable in respect of that land has been increased

(3) Subject to the provisions of sub-section (2), a suit instituted for the enhancement of the rent of a tenant having a right of occupancy shall not be entertained in either of the following cases, namely —

- (a) if within the ten years next preceding its institution his rent has been commuted under section 13 or enhanced under this section,
- (b) if within that period a decree has been passed under this Act dismissing on the merits a suit for the enhancement of his rent,

unless the land or some part of the land comprised in his tenancy, not having been irrigated or flooded at the time of such commutation, enhancement or decree, has become irrigated or flooded.

(4) For the purposes of this section a muqarraridar shall be deemed to be a tenant having a right of occupancy

25. In enhancing or reducing the rent of any land under the foregoing provisions of this chapter, the Court shall, within the limits prescribed by those provisions, enhance or reduce the rent to such an amount as it considers fair and equitable, but shall not in any case fix the rent at a sum less than the amount of the land revenue of the land and the rates and cesses chargeable thereon Discretion as to extent of enhancement or reduction.

26. (1) Unless the Court decreeing an enhancement of rent otherwise directs the enhancement shall take effect from the commencement of the agricultural year next following the date of the decree Time for enhancement or reduction to take effect.

(2) A Court decreeing a reduction of rent shall specify in the decree the date on and from which the reduction is to take effect

Adjustment of rents expressed in terms of the land-revenue

27. (1) Where the rent of a tenancy is the whole or a share of the land revenue thereof, with or without an addition in money, kind or service and the land-revenue of the holding in which the tenancy is situate is altered, a Revenue-officer having authority under section 56 of the Punjab Land revenue Act, 1887, to determine the land revenue payable in respect of the several Adjustment of rents expressed in terms of the land revenue.

holdings comprised in the estate in which the tenancy is situate shall determine also the amount of the land-revenue of the tenancy, or the proportionate share thereof, payable by the tenant as rent.

(2) Where an addition referred to in sub-section (1) is a percentage fixed with reference to the land-revenue of the tenancy, or the whole or a share of the rates and cesses chargeable thereon, or both, the Revenue-officer shall in like manner from time to time alter the amount of the addition in proportion to any alteration of such land-revenue or rates and cesses.

(3) The sum or sums determined under the foregoing sub-sections, together with any addition previously payable other than the additions referred to in sub-section (2), shall be the rent payable in respect of the tenancy until there is again an alteration of the land-revenue thereof or of the rates and cesses chargeable thereon or until the rent is enhanced by a suit under this Act.

(4) An alteration of rent under this section shall not be deemed an enhancement or reduction of rent within the meaning of this Act.

(5) For the purposes of this section a muqarraridar shall be deemed to be a tenant having a right of occupancy." Punjab
XI of 1

Adjustment of rents paid by occupancy-tenants in Attock District

Adjustment
of rents paid
by occu-
pancy
tenants in
Attock
district

27-A. (1) Where a tenant having a right of occupancy in land in the Attock District pays wholly or partly in cash a rent not falling within the scope of section 27 and the land revenue of the holding in which the tenancy is situated is altered— Punjab
XI of 1

a Revenue-officer having authority under section 36 of the Punjab Land Revenue Act, 1887, to determine the land revenue payable in respect of the several holdings comprised in the estate in which the tenancy is situate, may, by written order, and whether the rent was fixed by agreement or otherwise, and either upon the application of such tenant, or his landlord, or of his own motion increase or diminish such rent if wholly payable in cash, or such portion thereof as is payable in cash, to such extent as appears to the Revenue-officer to be proper having regard to the matters specified in sub-section (2).

(2) In increasing or diminishing the rent of a tenancy under the provisions of sub-section (1) the Revenue-officer shall, for the purpose of deciding the extent of such increase or diminution take into consideration only—

- (i) the land-revenue of and the rates and cesses chargeable on the tenancy before the land-revenue of the holding in which it is situated was altered;
- (ii) the land-revenue of and the rates and cesses chargeable on the tenancy after such alteration; and

(iii) the methods by which the assessments of the land-revenue in force before and after such alteration were calculated and distributed over the several holdings comprised in the estate in which the tenancy is situated.

(3) The rent determined as aforesaid shall be the rent payable in respect of the tenancy until there is again an alteration of the land revenue thereof or of the rates or cesses chargeable thereon, or until the rent is enhanced or reduced by a suit under this Act

(4) For the purposes of this section a muqarraridar shall be deemed to be a tenant having a right of occupancy

(5) An alteration of rent under this section shall not be deemed an enhancement or reduction of rent within the meaning of this Act

Alteration of rent on alteration of area

28 (1) Every tenant shall—

Alteration of
rent on alter-
ation of area.

(a) be liable to pay additional rent for all land proved to be in excess of the area for which rent has been previously paid by him unless it is proved that the excess is due to the addition to his tenancy of land which having previously belonged to the tenancy, was lost by diluvion or otherwise without any reduction of the rent being made and

(b) be entitled to an abatement of rent in respect of any deficiency proved to exist in the area of his tenancy as compared with the area for which rent has been previously paid by him, unless it is proved that the deficiency is due to the loss of land which was added to the area of the tenancy by alluvion or otherwise, and that an addition has not been made to the rent in respect of the addition to the area

(2) In determining the area for which rent has been previously paid the Court shall have regard to the following among other matters, namely —

(a) the origin and conditions of the tenant's occupancy, for instance, whether the rent was a rent in gross for the entire tenancy

(b) whether the tenant has been allowed to hold additional land in consideration of an addition to his total rent or otherwise with the knowledge and consent of the landlord and

(c) the length of time during which there has been no dispute as to rent or area

(3) In adding to or abating rent under this section the Court shall add to or abate the rent to such an amount as it deems to be fair and equitable, and shall specify in its decree the date on and from which the addition or abatement is to take effect

(4) An addition to or abatement of rent under this section shall not be deemed an enhancement or reduction of rent within the meaning of this Act

Remission

Remission of
rent by
Court
decreasing
amount

29 Notwithstanding anything in the foregoing sections of this chapter, if it appears to a Court making a decree for an arrear of rent that the area of a tenancy has been so diminished by diluvion or otherwise, or that the produce thereof has been so diminished by drought, hail, deposit of sand or other like calamity, that the full amount of rent payable by the tenant cannot be equitably decreed, the Court may, with the previous sanction of the Collector, allow such remission in the rent payable by the tenant as may appear to it to be just.

Remission
and
suspension of
rent on
ground of
decrease of
land revenue

30 (1) Whenever the payment of the whole or any part of the land revenue payable in respect of any land is remitted or suspended, a Revenue-officer may, if the rent be payable in cash or be rent payable in kind of which the amount is fixed, by order, remit or suspend, as the case may be, the payment of the rent of that land to an amount which may bear the same proportion to the whole of the rent payable in respect of the land as the land revenue or of the payment has been remitted or suspended bears to the whole of the land revenue payable in respect of the land.

Provided that in the case of an occupancy tenant, whose rent is of the nature hereinbefore in this sub-section described, the remission or suspension of the land revenue payable in respect of his land shall, in the absence of a written order by a Revenue-officer to the contrary, carry with it a proportionate remission or suspension, as the case may be, of his rent.

When the payment of the rent of any land has been suspended under this clause it shall remain under suspension until the Collector orders the revenue of that land to be realized.

(2) An order passed under sub-section (1) shall not be liable to be contested by suit in any Court.

(3) A suit shall not lie for the recovery of any rent of which the payment has been remitted or during the period or suspension of any rent of which the payment has been suspended.

(4) Where the payment of rent has been suspended, the period during which the suspension has continued shall be excluded in the computation of the period of limitation prescribed for a suit for the recovery of the rent.

(5) If the landlord collects from a tenant any rent of which the payment has been remitted, or is under suspension, the Revenue-officer may recover from the landlord the amount or value of the rent so collected and may also recover by way of penalty a further sum not exceeding such amount or value and may cause to be refunded to the tenant the amount or value of the rent so collected from him.

(6) The provisions of this section relating to the remission and suspension of the payment of rent may be applied so far as they can be made applicable to land of which the land revenue has been released, compounded for or redeemed in any case in which the land revenue in respect of the land had not been released, com-

pounded for or redeemed, the whole or any part of it might, in the opinion of the Revenue-officer, be remitted or suspended under the rules for the time being in force for regulating the remission and suspension of land revenue

(7) Any sum of which the recovery is ordered under sub-section (5) on account of rent or penalty may be recovered by the Collector as if it were an arrear of land revenue

Deposits

31. In either of the following cases, namely —

(a) when a landlord refuses to receive, or grant a receipt for, any rent payable in money when tendered to him by a tenant,

Power to deposit rent in certain cases with Revenue officer

(b) when a tenant is in doubt as to the person entitled to receive rent payable in money,

FINANCIAL COMMISSIONERS OFFICE, PUNJAB

CORRECTION SLIP NO 135, DATED LAHORE, THE 10TH OCTOBER, 1938

The Punjab Land Administration Acts, volume I

The Punjab Tenancy Act, XVI of 1887

Section 32, page 19

In correction slip no 63, dated the 16th September, 1937, insert the following in the margin —

‘The Government of India (Adaptation of Indian Laws) Order 1937’.

353 FC—3,500—21 10 38—SQFP Lahore

under this section, but nothing in this sub section shall prevent any person entitled to receive the amount of any such deposit from recovering it from a person to whom it has been paid by a Revenue officer

Recovery of rent from attached produce

33 (1) If an order is made by any Court for the attachment of the produce of a tenancy or of any part of a tenancy, the landlord may apply to the Revenue-officer by whom the attachment is to be or has been made to sell the produce and pay to him out of the proceeds of the sale thereof the amount or value of—

Recovery of rent from attached produce.

(a) any rent which has fallen due to him in respect of the tenancy within the year immediately preceding the application, and

(b) the rent which will be falling due after the harvesting of the produce and is chargeable against it

(2) The Revenue-officer shall give the person at whose instance the attachment was made an opportunity of showing 'cause why the application of the landlord should not be granted and, if he finds the landlord's claim to the whole or any part of the rent to be proved, he shall cause the produce or such portion thereof as he may deem necessary to be sold, and shall apply the proceeds of the sale in the first instance to satisfy the claim.

(3) The finding of the Revenue-officer under sub-section (2) shall have the force of a decree in a suit between the landlord and the tenant.

Leases for period exceeding term of assessment of land-revenue

Treatment of
leases for
period exceed-
ing or equal
to term of as-
sessment of
land revenue.

34 (1) Where a lease has been granted, or an agreement has been entered into, by a land-owner in respect of any land assessed to land-revenue, fixing for a period exceeding the term for which the land-revenue has been assessed the rent or other sum payable in respect of the land under the lease or agreement, and that term has expired, the lease or agreement shall be voidable—

- (a) at the option of the land-owner if the land-revenue of the land has been enhanced and the person to whom the lease has been granted or with whom the agreement has been entered into refuses to pay such rent or other sum as a Revenue Court, on the suit of the land owner, determines to be fair and equitable or a Revenue officer under the provisions of section 27-A has determined to be proper, and

where the relation of landlord and tenant exists between the grantor and grantee of the lease, or between the persons who entered into the agreement—

- (b) at the option of the tenant if the land-revenue of the land has been reduced and the landlord refuses to accept such rent as a Revenue Court, on the suit of the tenant, determines to be fair and equitable or a Revenue officer under the provisions of section 27-A has determined to be proper.

(2) Any agreement relative to the occupation, rent, profits or produce of any land which has been entered into for the term of the currency of an assessment shall, unless a contrary intention clearly appears in the agreement or the agreement is terminated by consent of parties or course of law continue in force until a revised assessment takes effect.

CHAPTER IV.

RELINQUISHMENT, ABANDONMENT AND EJECTMENT

Relinquishment

Relinquish-
ment by ten-
ant for a
fixed term.

35. A tenant holding for a fixed term under a contract or a decree or order of competent authority may relinquish his tenancy without notice at the end of that term.

36. (1) Any other tenant may relinquish his tenancy by giving verbally or in writing to his landlord or to his landlord's agent, on or before the fifteenth day of January in any year, notice of his intention to relinquish the tenancy at the end of the agricultural year then current

Relinquish
ment by any
other tenant.

(2) The tenant may, instead of, or in addition to, giving the notice in the manner mentioned in sub section (1), apply to a Revenue officer on or before the date aforesaid to cause the notice to be served on the landlord, and the Revenue officer, on receiving the cost of service from the tenant, shall cause the notice to be served as soon as may be

(3) If the tenant does not give notice in the manner prescribed in this section, he shall be liable to pay the rent of his tenancy for any part of the ensuing agricultural year during which the tenancy is not let by the landlord to some other person or is not cultivated by the landlord himself

37. A tenant cannot, without the consent of his landlord, relinquish a part only of his tenancy

Relinquish
ment of part
only of a
tenancy

Abandonment

38. (1) If a tenant having a right of occupancy fails for more than one year without sufficient cause to cultivate his tenancy, either by himself or some other person, and to arrange for payment of the rent thereof as it falls due, the right of occupancy shall be extinguished from the end of that year

Abandon-
ment of
tenancy by
occupancy
tenant.

(2) For the purposes of this section a muqarraridar shall be deemed to be a tenant having a right of occupancy

Ejectment

Liability to ejectment

39 (1) A tenant having a right of occupancy shall be liable to be ejected from his tenancy on any of the following grounds namely —

Grounds of
ejectment of
occupancy
tenant.

(a) that he has used the land comprised in the tenancy in a manner which renders it unfit for the purposes for which he held it,

(b) where rent is payable in kind, that he has without sufficient cause failed to cultivate that land in the manner or to the extent customary in the locality in which the land is situate,

(c) that a decree for an arrear of rent in respect of the tenancy has been passed against him and remains unsatisfied

(2) For the purposes of this section a muqarraridar shall be deemed to be a tenant having a right of occupancy

40. A tenant not having a right of occupancy, but holding for a fixed term under a contract or a decree or order of competent authority, shall be liable to be ejected from his tenancy at the ex-

Grounds of
ejectment of
tenant for a
fixed term

piration of that term, and, on any of the following grounds, before the expiration thereof, namely —

- (a) that he has used the land comprised in the tenancy in a manner which renders it unfit for the purposes for which he held it,
- (b) where rent is payable in kind, that he has without sufficient cause failed to cultivate that land in the manner or to the extent customary in the locality in which the land is situate,
- (c) on any ground which would justify ejectment under the contract, decree or order

Ejectment of tenant from year to year. 41. A tenant who has not a right of occupancy, and does not hold for a fixed term under a contract or a decree or order of competent authority, may be ejected at the end of any agricultural year

Procedure on ejectment

Restriction on ejectment. 42. A tenant shall not be ejected otherwise than in execution of a decree for ejectment except in the following cases, namely —

- (a) when a decree for an arrear of rent in respect of his tenancy has been passed against him and remains unsatisfied,
- (b) when the tenant has not a right of occupancy and does not hold for a fixed term under a contract or a decree or order of competent authority

Application to Revenue officer for ejectment

43. In any such case as is mentioned in clause (a) or clause (b) of the last foregoing section, the landlord may apply to a Revenue-officer for the ejectment of the tenant in the case mentioned in the former clause or for the service on the tenant of a notice of ejectment in the case mentioned in the latter clause

Ejectment for failure to satisfy decree for arrear of rent

44. (1) On receiving the application in any such case as is mentioned in clause (a) of section 42, the Revenue-officer shall, after such inquiry with respect to the existence of the arrear as he deems necessary, cause a notice to be served on the tenant, stating the date of the decree and the amount due thereunder, and informing him that if he does not pay that amount to the Revenue-officer within fifteen days from receipt of the notice he will be ejected from the land

(2) If the amount is not so paid, the Revenue officer shall, subject to the provisions of this Act with respect to the payment of compensation, order the ejectment of the tenant unless good cause is shown to the contrary

Ejectment of tenant from year to year by notice.

45. (1) On receiving the application of the landlord in any such case as is mentioned in clause (b) of section 42, the Revenue-officer shall, if the application is in order and not open to objection on the face of it, cause a notice of ejectment to be served on the tenant

(2) A notice under sub-section (1) shall not be served after the XIIth fifteenth day of November in any agricultural year

(3) The notice shall specify the name of the landlord on whose application it is issued, and describe the land to which it relates, and shall inform the tenant that he must vacate the land before the first day of May next following, or that, if he intends to contest his liability to ejectment, he must institute a suit for that purpose in a Revenue Court within two months from the date of the service of the notice

(4) The notice shall also inform the tenant that if he does not intend to contest his liability to be ejected and he has any claim for compensation on ejectment he should within two months from the date of the service of the notice, prefer his claim to the Revenue-officer having authority under the next following sub-section to order his ejectment in the circumstances described in that sub-section

(5) If within two months from the date of the service of the notice the tenant does not institute a suit to contest his liability to be ejected, a Revenue-officer, on the application of the landlord shall, subject to the provisions of this Act with respect to the payment of compensation, order the ejectment of the tenant

Provided that the Revenue officer shall not make the order until he is satisfied that the notice was duly served on the tenant

(6) If within those two months the tenant institutes a suit to contest his liability to be ejected and fails in the suit, the Court by which the suit is determined shall by its decree direct the ejectment of the tenant

46. The Financial Commissioner may make rules prescribing— Power to make rules

(a) the form and language of applications and notices under the two last foregoing sections and

(b) the manner in which those applications and notices are to be signed and attested

General provisions respecting ejectment

47. A decree or order for the ejectment of a tenant shall not be executed at any other time than between the first day of May and the fifteenth day of June (both days inclusive) unless the Court making the decree or, where the order is made under section 44, the officer making the order otherwise directs Time for ejectment.

48. (1) If in a suit for the ejectment of a tenant on either of the grounds mentioned in clauses (a) and (b) of section 39 or of section 40 it appears to the Court that the injury caused by the act or omission on which the suit is based is capable of being remedied or that an award of compensation will be sufficient satisfaction to the landlord therefor, the Court may, instead of making a decree for the ejectment of the tenant, order him to remedy the injury within a period to be fixed in the order, or order him to pay into Court, within such a period, such compensation as the Court thinks fit Relief against forfeiture.

(2) The Court may from time to time for special reasons, extend or by it under sub-section (1).

(3) If within the period, or extended period as the case may be, fixed by the Court under this section, the injury is remedied or the compensation is paid, a decree for the ejectment of the tenant shall not be made.

Rights of
ejected
tenants in
respect of
crops and
land prepared
for sowing.

49 (1) Where at the time of the proposed ejectment of a tenant from any land his uncut or ungathered crops are standing on any part thereof, he shall not be ejected from that part until the crops have ripened and he has been allowed a reasonable time to harvest them

(2) The Court or Revenue-officer decreeing or ordering the ejectment of the tenant may, on the application of the landlord, determine any dispute arising in consequence of the provisions of sub-section (1) between the landlord and the tenant or between the landlord and any person entitled to harvest the crops of the tenant, and may in its or his discretion—

(a) direct that the tenant pay for the longer occupation of the land secured to him under sub-section (1) such rent as may be fair and equitable, or

(b) determine the value of the tenant's uncut and ungathered crops, and, on payment thereof by the landlord to the Court or Revenue-officer, forthwith eject the tenant.

(3) When a tenant for whose ejectment proceedings have been taken, has, conformably with local usage, prepared for sowing any land comprised in his tenancy, but has not sown or planted crops on that land, he shall be entitled to receive from the landlord before ejectment a fair equivalent in money for the labour and capital expended by him in so preparing the land, and the Court or Revenue-officer before which or whom the proceedings are pending shall, on the application of the tenant, determine the sum payable to the tenant under this sub-section and stay his ejectment until that sum has been paid to him.

Relief for wrongful dispossession

Relief for
wrongful
dispossession
or ejectment.

50. In either of the following cases, namely—

(a) if a tenant has been dispossessed without his consent of his tenancy or any part thereof otherwise than in execution of a decree or than in pursuance of an order under section 44 or section 45,

(b) if a tenant who, not having instituted a suit under section 45, has been ejected from his tenancy or any part thereof in pursuance of an order under that section denies his liability to be ejected,

the tenant may, within one year from the date of his dispossession or ejectment, institute a suit for recovery of possession or occupancy, or for compensation, or for both.

50 A. No person whose ejectment has been ordered by a revenue court under section 45, sub section (6), or whose suit has been dismissed under section 50, may institute a suit in a civil court to contest his liability to ejectment, or to recover possession or occupance rights, or to recover compensation

Bar to civil suits.

51. Possession of a tenancy or of any land comprised in a tenancy shall not be recoverable under section 9 of the Specific Relief Act, 1877, by a tenant dispossessed thereof

Bar of relief by suit under section 9 Act I of 1877

Power to fix dates prescribed by this chapter

52. (1) The Government may for all or any of the territories under its administration by notification fix for the purposes of sections 36 45 and 47 or of any of those sections, any other dates instead of those specified therein

Power for Local Government to fix dates for certain purposes

(2) A notification under this section shall not take effect till after the expiration of six months from the date of the publication thereof

52-A. The provisions of this chapter shall not apply to muqarraridars

Provisions of chapter V not to apply to muqarraridars.

The Punjab Land Administration Acts, volume I.

The Punjab Tenancy Act, XVI of 1887, page 25

The existing section 52-A, and its marginal headings shall be deleted from chapter IV and inserted in chapter V immediately before section 53

rate transfer of right of occupancy under section 5 by tenant.

(2) If he intends to transfer the right by sale, gift, mortgage by conditional sale or usufructuary mortgage he shall cause notice of his intention to be served on his landlord through a Revenue-officer and shall defer proceeding with the transfer for a period of one month from the date on which the notice is served

(3) Within that period of one month the landlord may claim to purchase the right at such value as a Revenue-officer may on application made to him in this behalf fix

(4) When the application to the Revenue-officer is to fix the value of a right of occupancy which is already mortgaged he shall fix the value of the right as if it were not mortgaged

(5) The landlord shall be deemed to have purchased the right if he pays the value to the Revenue-officer within such time as that officer appoints

(C) On the value being so paid the right of occupancy shall be extinct and the Revenue-officer shall on the application of the landlord put the landlord in possession of the tenancy

(7) If the right of occupancy was already mortgaged the tenancy shall pass to the landlord unnumbered by the mortgage but the mortgage-debt shall be a charge on the purchase-money

(8) If there is no such charge as aforesaid, the Revenue-officer shall, subject to any directions which he may receive from any Court, pay the purchase-money to the tenant.

(9) If there is such a charge, the Revenue-officer shall, subject as aforesaid, either apply in discharge of the mortgage-debt so much of the purchase-money as is required for that purpose and pay the balance, if any, to the tenant, or retain the purchase-money pending the decision of a Civil Court as to the person or persons entitled thereto.

(10) Where there are several landlords...

GOVERNMENT LAND REVENUE OFFICE, PUNJAB.

THIS 10TH OCTOBER,

Volume I.

1887, Part

of occupancy execution of a decree or order of a Court;

under section
5 in execution
of decree.

(2) But notice of an intended sale of any such right shall be given by the Court to the landlord, and, if at any time before the close of the day on which the sale takes place the landlord pays to the Court or to the officer conducting the sale a deposit of twenty-five per centum on the highest bid made at the sale, he shall be declared to be the purchaser instead of the person who made that bid.

Transfer of
right of occu-
pancy under
any other
section than
section 5
Rights and
liabilities of
transferee
of right of
occupancy.

56. A right of occupancy under any other section than section 5 shall not be attached or sold in execution of a decree or of any Court or, without the previous consent in writing of landlord, be transferred by private contract.

57. When a right of occupancy has been transferred by gift or usufructuary mortgage to a person other than the landowner, that person shall, in respect of the land in which the right so transferred has the same rights, and be subject to the same liabilities, as the person to whom before the transfer the right belonged, had he been subject to.

Subletting.

58. (1) A tenant having a right of occupancy in land subject to the provisions of this Act and to the conditions written in the contract between him and his landlord, may sublet the whole or any part thereof for any term not exceeding seven years.

(2) A person to whom land is sublet by a tenant having a right of occupancy therein shall, in respect of that land, and so far as regards the landlord, be, jointly with the tenant, subject to all the liabilities of the tenant under this Act

et
7 **58-A.** (1) Any tenant with a right of occupancy may, with the consent of his landlord transfer his land to all the members of a Co operative Society for the Consolidation of Holdings of which both he and his landlord are members and obtain from them any other land in exchange

Transfer of
right of
occupancy
under any
section of
the Act by
exchange.

(2) Notwithstanding anything contained in this Act or any other enactment in force, any land obtained in exchange in pursuance of the provisions of sub section (1) shall be deemed to be subject to the same right of occupancy as the land given for it in exchange

Succession

59. (1) When a tenant having a right of occupancy in any land dies the right shall devolve—

Succession
to right of
occupancy

(a) on his male lineal descendants, if any, in the male line of descent and,

(b) failing such descendants, on his widow, if any, until she dies or re marries or abandons the land or is under the provisions of this Act ejected therefrom, and

v (c) failing such descendants and widow, or, if the deceased tenant left a widow, then when her interest terminates under clause (b) of this sub-section on his male collateral relatives in the male line of descent from the common ancestor of the deceased tenant and those relatives

Provided with respect to clause (c) of this sub section, that the common ancestor occupied the land

Explanation

Act
27 For the purpose of clause (c), land obtained in exchange by the deceased tenant or any of his predecessors in interest in pursuance of the provisions of sub section (1) of section 58 A shall be deemed to have been occupied by the common ancestor if the land given for it in exchange was occupied by him

(2) As among descendants and collateral relatives claiming under sub section (1) the right shall, subject to the provisions of that sub section devolve as if it were land left by the deceased in the village in which the land subject to the right is situate

(3) When the widow of a deceased tenant succeeds to a right of occupancy she shall not transfer the right by sale, gift or mortgage or by sub lease for a term exceeding one year

(4) If the deceased tenant has left no such persons as are mentioned in sub section (1) on whom his right of occupancy may devolve under that sub-section the right shall be extinguished

(b) If there is no such charge as aforesaid, the Revenue-officer shall, subject to any directions which he may receive from any Court, pay the purchase-money to the tenant.

(9) If there is such a charge, the Revenue-officer shall, subject as aforesaid, either apply in discharge of the mortgage-debt so much of the purchase-money as is required for that purpose and pay the balance, if any, to the tenant, or retain the purchase-money pending the decision of a Civil Court as to the person or persons entitled thereto.

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.

CORRECTION SLIP NO. 131, DATED LAHORE, THE 10TH OCTOBER, 1938.

The Punjab Land Administration Acts, volume I.

The Punjab Tenancy Act, XVI of 1887.

Section 53.

Sub-section 11, page 26.

In correction slip no. 64, dated the 16th September, 1937, insert the following in the margin :—

“ The Government of India (Adaptation of Indian Laws) Order, 1937”.

53. A right of occupancy under section 5 may be sold in execution of a decree or order of a Court;

(2) But notice of an intended sale of any such right shall be given by the Court to the landlord, and, if at any time before the close of the day on which the sale takes place the landlord pays to the Court or to the officer conducting the sale a deposit of twenty-five per centum on the highest bid made at the sale, he shall be declared to be the purchaser instead of the person who made that bid

Transfer of right of occupancy under any other section than section 5
Rights and liabilities of transferee of right of occupancy.]

56. A right of occupancy under any other section than section 5 shall not be attached or sold in execution of a decree or order of any Court or, without the previous consent in writing of the landlord, be transferred by private contract

57. When a right of occupancy has been transferred by sale, gift or usufructuary mortgage to a person other than the landlord, that person shall, in respect of the land in which the right subsists, have the same rights, and be subject to the same liabilities, as the tenant to whom before the transfer the right belonged, had and was subject to.

Subletting.

58. (1) A tenant having a right of occupancy in land may, subject to the provisions of this Act and to the conditions of any written contract between him and his landlord, sublet the land or any part thereof for any term not exceeding seven years.

(2) A person to whom land is sublet by a tenant having a right of occupancy therein shall, in respect of that land, and so far as regards the landlord, be, jointly with the tenant, subject to all the liabilities of the tenant under this Act

58-A. (1) Any tenant with a right of occupancy may, with the consent of his landlord transfer his land to all the members of a Co operative Society for the Consolidation of Holdings of which both he and his landlord are members and obtain from them any other land in exchange

Transfer of right of occupancy under any section of the Act by exchange.

(2) Notwithstanding anything contained in this Act or any other enactment in force, any land obtained in exchange in pursuance of the provisions of sub section (1) shall be deemed to be subject to the same right of occupancy as the land given for it in exchange

Succession

59. (1) When a tenant having a right of occupancy in any land dies the right shall devolve—

Succession to right of occupancy

(a) on his male lineal descendants if any, in the male line of descent and,

(b) failing such descendants, on his widow, if any, until she dies or remarries or abandons the land or is under the provisions of this Act ejected therefrom, and,

(c) failing such descendants and widow, or, if the deceased tenant left a widow, then when her interest terminates under clause (b) of this sub-section, on his male collateral relatives in the male line of descent from the common ancestor of the deceased tenant and those relatives

Provided with respect to clause (c) of this sub section, that the common ancestor occupied the land

Explanation

For the purpose of clause (c) land obtained in exchange by the deceased tenant or any of his predecessors in interest in pursuance of the provisions of sub section (1) of section 58 A shall be deemed to have been occupied by the common ancestor if the land given for it in exchange was occupied by him

(2) As among descendants and collateral relatives claiming under sub section (1) the right shall, subject to the provisions of that sub section devolve as if it were land left by the deceased in the village in which the land subject to the right is situate

(3) When the widow of a deceased tenant succeeds to a right of occupancy she shall not transfer the right by sale, gift or mortgage or by sub lease for a term exceeding one year

(4) If the deceased tenant has left no such persons as are mentioned in sub section (1) on whom his right of occupancy may devolve under that sub-section the right shall be extinguished

Irregular transfers

60 Any transfer made of a right of occupancy in contravention of the foregoing provisions of this chapter shall be voidable at the instance of the landlord

Irregular
transfer of
right of
occupancy

CHAPTER VI

IMPROVEMENTS AND COMPENSATION

Improvements by landlords

61 (1) Without the previous permission of the Collector a landlord shall not make an improvement on the tenancy of a tenant having a right of occupancy

Improvement
by landlords
on tenancies
of occupancy
tenants

(2) If a landlord desires to make such an improvement he may apply to the Collector for permission to make it and the Collector shall before making an order on the application, hear the objection if any, of the tenant

(3) In making an order on an application under sub section (2) the Collector shall be guided by such rules if any, as the Local Government may make in this behalf

62. (1) When a landlord has with the permission mentioned in the last foregoing section, made an improvement on the tenancy of a tenant having a right of occupancy, he may apply to the Collector for an enhancement of the rent of the tenant

Enhancement
of rent in
consideration
of an
improvement
made by a
landlord on
the tenancy
of an occu-
pancy tenant

(2) If the tenant is a tenant to whom section 20 applies, the Collector shall enhance his rent to the share or rates or with reference to the rent in gross as the case may be, paid by tenants having a similar right of occupancy for land of a similar description and with similar advantages

(3) If the tenant is a tenant to whom section 22 applies the Collector shall enhance his rent to such amount as the tenant would be liable to pay under that section if the land revenue were reassessed

(4) When the improvement ceases to exist the Collector may, on the application of the tenant reduce the tenant's rent—

(a) in the case of a tenant to whom sub section (2) applies, to the share or rates or with reference to the rent in gross as the case may be paid by tenants having a similar right of occupancy for land of a similar description and with similar advantages and

(b) in the case of a tenant to whom sub section (3) applies to such an amount as the tenant would be liable to pay if the land revenue were reassessed

(5) Sections 25 and 26 shall be construed as applying to an application under this section and a suit shall not lie in any Court for any purpose for which an application might be made under this section

Improvements by tenants

63. A tenant having a right of occupancy is entitled to make improvements on his tenancy

Title of occupancy tenant to make improvements

64. (1) A tenant not having a right of occupancy may make improvements on his tenancy with the assent of his landlord

Title of tenants not having right of occupancy to make improvements.

(2) If at any time the question arises whether or not the landlord assented to the making of an improvement by a tenant not having a right of occupancy, the assent may be inferred from circumstances

65. Improvements made by a tenant before the commencement of this Act, shall be deemed to have been made in accordance with this Act, unless in the case of a tenant not having a right of occupancy it is shown that the improvement was made in contravention of a written agreement between him and his landlord

Improvements made before commencement of this Act

66. A tenant ejected in execution of a decree, or in pursuance of a notice of ejectment, shall not be entitled to compensation for any improvement begun by him after the institution of the suit, or service of the notice, which resulted in his ejectment

Improvements begun in anticipation of ejectment

67. If a landlord tenders to a tenant a lease of his tenancy for a term of not less than twenty years from the date of the tender at the rent then paid by the tenant, or at such other rent as may be agreed on, the tender, if accepted by the tenant shall bar any claim by him to compensation in respect of improvements previously made on the tenancy

Tender of lease for twenty years to tenant to be a bar to right to compensation.

68. Subject to the foregoing provisions of this chapter a tenant who has made an improvement on his tenancy in accordance with this Act shall not be ejected and the rent payable by him shall not be enhanced until he has received compensation for the improvement

Liability to pay compensation for improvements to tenant on ejectment or on enhancement of his rent.

Compensation for disturbance of clearing tenants

69. (1) A tenant who has cleared and brought under cultivation waste land in which he has not a right of occupancy shall, if ejected from that land be entitled to receive from the landlord as compensation for disturbance in addition to any compensation for improvements a sum to be determined by a Revenue Court or Revenue-officer in accordance with the merits of the case but not exceeding five years' rent of the land

Compensation for disturbance of clearing tenants.

Provided that a tenant who is a joint owner of land to which this section applies shall not be entitled to compensation for disturbance on ejectment from the land or any part thereof

(2) If rent has been paid for the land by division or apportionment of the produce or by rates fixed with reference to the nature of the crops grown or if no rent or no rent other than the land revenue of the land and the rates and cesses chargeable thereon has

been paid therefor, the compensation may be computed as if double the amount of the land revenue of the land were the annual rent thereof

Provided that in any estate of which the assessment has been confirmed on or after the twenty second day of February 1929, the compensation may be computed as if four times the amount of the land revenue of the land were the annual rent thereof

Procedure in determining compensation

Determina-
tion of com-
pensation by
Revenue
Courts.

70. (1) In every suit by a tenant to contest his liability to ejectment or by a landlord to eject a tenant or to enhance his rent, the Court shall direct the tenant to file a statement of his claim, if any, to compensation for improvements or for disturbance and of the grounds thereof

(2) If the Court decrees the ejectment of the tenant or the enhancement of his rent it shall determine the amount of compensation, if any due to the tenant and shall stay execution of the decree until the landlord pays into Court that amount less any arrears of rent or costs proved to the satisfaction of the Court to be due to him from the tenant

Determina-
tion of com-
pensation by
Revenue
officers.

71 In either of the following cases namely —

(a) when a notice has been served on a tenant under section 44

(b) when a notice of ejectment has been served on a tenant under section 45 and the tenant has not instituted a suit to contest his liability to be ejected

the tenant may apply to the Revenue-officer having authority to order his ejectment under section 44 or section 45 as the case may be to determine the amount of compensation due to him for improvements or for disturbance or for both and the Revenue officer shall determine the amount if any accordingly and stay the ejectment of the tenant until the landlord pays to the Revenue officer the amount so determined less any arrears of rent or costs proved to the satisfaction of the Revenue officer to be due to the landlord from the tenant

Matters to be
regarded in
assessment
of compensa-
tion for im-
provements

72 In estimating the compensation to be awarded under this chapter to a tenant for an improvement the Court or Revenue officer shall have regard to—

(a) the amount by which the value or the produce of the tenancy or the value of that produce is increased by the improvement

(b) the condition of the improvement and the probable duration of its effects

(c) the labour and capital required for the making of such an improvement

(d) any reduction or remission of rent or other advantage allowed to the tenant by the landlord in consideration of the improvement, and

- (e) in the case of a reclamation, or of the conversion of un-irrigated into irrigated land, the length of time during which the tenant has had the benefit of the improvement.

73. (1) The compensation shall be made by payment in money; Form of compensation. unless the parties agree that it be made in whole or in part by the grant of a beneficial lease of land or in some other way

(2) If the parties so agree, the Court or Revenue-officer shall make an order accordingly

Relief in case of ejectment before determination of compensation

74. (1) If from any cause the amount of compensation payable to a tenant— Relief in case of ejectment before determination of compensation

(a) under this chapter for improvements or disturbance; or

(b) under section 49 for the value of uncut or ungathered crops or the preparation of land for sowing,

has not been determined before the tenant is ejected, the ejectment shall not be invalidated by reason of the omission, but the Court or Revenue-officer which decreed or who ordered the ejectment may, on application made by the tenant within one year from the date of the ejectment, correct the omission by making in favour of the tenant an order for the payment to him by the landlord of such compensation as the Court or officer may determine the tenant to be entitled to

(2) An order made under sub-section (1) may be executed in the same manner as a decree for money may be executed by a Revenue Court

CHAPTER VII

JURISDICTION AND PROCEDURE

Jurisdiction

75. (1) There shall be the same classes of Revenue-officers Revenue-officers. under this Act as under the Punjab Land Revenue Act, 1887 and, in the absence of any order of the ~~Local~~ Government to the contrary, a Revenue-officer of any class having jurisdiction within any local limits under that Act shall be a Revenue-officer of the same class having jurisdiction within the same local limits under this Act

(2) The expressions "Collector" and "Financial Commissioner" have the same meaning in this Act as in the Punjab Land Revenue Act, 1887.

76. (1) The following applications and proceedings shall be disposed of by Revenue-officers as such and no Court shall take cognizance of any dispute or matter with respect to which any such application or proceeding might be made or had — Applications and proceedings cognizable by Revenue-officers.

First Group

- (a) proceedings under section 27 for the adjustment of rents expressed in terms of the land-revenue,

been paid therefor, the compensation may be computed as if double the amount of the land revenue of the land were the annual rent thereof

Provided that in any estate of which the assessment has been confirmed on or after the twenty second day of February 1929, the compensation may be computed as if four times the amount of the land revenue of the land were the annual rent thereof

Procedure in determining compensation

Determina-
tion of com-
pensation by
Revenue
Courts.

70. (1) In every suit by a tenant to contest his liability to ejectment or by a landlord to eject a tenant or to enhance his rent, the Court shall direct the tenant to file a statement of his claim, if any, to compensation for improvements or for disturbance and of the grounds thereof

(2) If the Court decrees the ejectment of the tenant or the enhancement of his rent it shall determine the amount of compensation, if any due to the tenant and shall stay execution of the decree until the landlord pays into Court that amount less any arrears of rent or costs proved to the satisfaction of the Court to be due to him from the tenant

Determina-
tion of com-
pensation by
Revenue
officers.

71. In either of the following cases namely —

(a) when a notice has been served on a tenant under section 44

(b) when a notice of ejectment has been served on a tenant under section 45 and the tenant has not instituted a suit to contest his liability to be ejected,

the tenant may apply to the Revenue officer having authority to order his ejectment under section 44 or section 45 as the case may be to determine the amount of compensation due to him for improvements or for disturbance or for both and the Revenue officer shall determine the amount if any accordingly and stay the ejectment of the tenant until the landlord pays to the Revenue officer the amount so determined less any arrears of rent or costs proved to the satisfaction of the Revenue officer to be due to the landlord from the tenant

Matters to be
regarded in
assessment
of compensa-
tion for im-
provements

72. In estimating the compensation to be awarded under this chapter to a tenant for an improvement the Court or Revenue officer shall have regard to—

(a) the amount by which the value or the produce of the tenancy or the value of that produce is increased by the improvement,

(b) the condition of the improvement and the probable duration of its effects

(c) the labour and capital required for the making of such an improvement,

(d) any reduction or remission of rent or other advantage allowed to the tenant by the landlord in consideration of the improvement, and

- (e) in the case of a reclamation, or of the conversion of un-irrigated into irrigated land, the length of time during which the tenant has had the benefit of the improvement

73. (1) The compensation shall be made by payment in money, unless the parties agree that it be made in whole or in part by the grant of a beneficial lease of land or in some other way Form of compensation.

(2) If the parties so agree the Court or Revenue officer shall make an order accordingly

Relief in case of ejectment before determination of compensation

74. (1) If from any cause the amount of compensation payable to a tenant— Relief in case of ejectment before determination of compensation

(a) under this chapter for improvements or disturbance, or

(b) under section 49 for the value of uncut or ungathered crops or the preparation of land for sowing,

has not been determined before the tenant is ejected, the ejectment shall not be invalidated by reason of the omission but the Court or Revenue-officer which decreed or who ordered the ejectment may, on application made by the tenant within one year from the date of the ejectment, correct the omission by making in favour of the tenant an order for the payment to him by the landlord of such compensation as the Court or officer may determine the tenant to be entitled to

(2) An order made under sub section (1) may be executed in the same manner as a decree for money may be executed by a Revenue Court

CHAPTER VII

JURISDICTION AND PROCEDURE

Jurisdiction

75. (1) There shall be the same classes of Revenue-officers under this Act as under the Punjab Land Revenue Act 1887 and in the absence of any order of the ~~Government~~ *Local Government* to the contrary, a Revenue-officer of any class having jurisdiction within any local limits under that Act shall be a Revenue-officer of the same class having jurisdiction within the same local limits under this Act Revenue-officers.

(2) The expressions "Collector" and "Financial Commissioner" have the same meaning in this Act as in the Punjab Land Revenue Act 1887

76. (1) The following applications and proceedings shall be disposed of by Revenue-officers as such and no Court shall take cognizance of any dispute or matter with respect to which any such application or proceeding might be made or had — Applications and proceedings cognizable by Revenue-officers.

First Group

- (a) proceedings under section 27 for the adjustment of rents expressed in terms of the land revenue,

- (b) suits between landlord and tenant for addition to or abatement of rent under section 24 or for commutation of rent,
- (c) suits under section 34 for the determination of rent or other sum on the expiration of the term of an assessment of land revenue,* [and suits relating to the rent to be paid under a mortgage made in accordance with form (c) as prescribed by section 6 of the Punjab Alienation of Land Act 1900]

Punjab
XIII of

Second Group

- (d) suits by a tenant to establish a claim to a right of occupancy or by a landlord to prove that a tenant has not such a right,
- (e) suits by a landlord to eject a tenant
- (f) suits by a tenant under section 40 to contest liability to ejectment, when notice of ejectment has been served,
- (g) suits by a tenant under section 50 for recovery of possession or occupancy or for compensation, or for both,
- (h) suits by a landlord to set aside a transfer made of a right of occupancy, or to dispossess a person to whom such a transfer has been made or for both purposes,
- (i) any other suit between landlord and tenant arising out of the lease or conditions on which a tenancy is held,
- (j) suits for sums payable on account of village cesses or village expenses,
- (k) suits by a co-sharer in an estate or holding for a share of the profits thereof or for a settlement of accounts,
- (l) suits for the recovery of over payments of rent or land-revenue or of any other demand for which a suit lies in a Revenue Court under this sub-section,
- (m) suits relating to the emoluments of karnungos, mirdars, inamdars or village-officers

Third Group

- (n) suits by a landlord for arrears of rent or the money-equivalent of rent or for sums recoverable under section 14
- (o) suits by a landowner to recover moneys claimed as due for the enjoyment of rights in or over land or in water, including rights of irrigation, rights over fisheries, rights of pasturage and forest rights

* See section 22 Punjab Alienation of Land Act (XIII of 1900)

(p) suits for sums payable on account of land-revenue or of any other demand recoverable as an arrear of land-revenue under any enactment for the time being in force, and by a superior landowner for other sums due to him as such

(4) Except as otherwise provided by any rule made by the Financial Commissioner in this behalf,—

(a) a Collector may hear and determine any of the suits mentioned in sub-section (3)

(b) an Assistant Collector of the first grade may hear and determine any of the suits mentioned in the second and third groups of that sub-section, and, if he has by ~~name~~ ^{provision} been specially empowered in this behalf by the ~~Local~~ Government any of the suits mentioned in the first group, and

(c) an Assistant Collector of the second grade may hear and determine any of the suits mentioned in the third group

Administrative control

78. (1) The general superintendence and control over all other Revenue-officers and Revenue Courts shall be vested in and all such officers and Courts shall be subordinate to the Financial Commissioner Superintendence and control of Revenue-officers and Revenue Courts

(2) Subject to the general superintendence and control of the Financial Commissioner a Commissioner shall control all other Revenue officers and Revenue Courts in his division

(3) Subject as aforesaid and to the control of the Commissioner a Collector shall control all other Revenue officers and Revenue Courts in his district

79. (1) The Financial Commissioner or a Commissioner or Collector may by written order distribute in such manner as he thinks fit any business cognizable by any Revenue-officer or Revenue Court under his control Power to distribute business and withdraw and transfer cases.

(2) The Financial Commissioner or a Commissioner or Collector may withdraw any case pending before any Revenue-officer or Revenue Court under his control and either dispose of it himself, or by written order refer it for disposal to any other Revenue-officer or Revenue Court under his control

(3) An order under sub-section (1) or sub-section (2) shall not empower any Revenue-officer or Revenue Court to exercise any powers or deal with any business which he or it would not be competent to exercise or deal with within the local limits of his or its own jurisdiction

Appeal Review and Revision

80. Subject to the provisions of this Act and the rules thereunder an appeal shall lie from an original or appellate order or

decree made under this Act by a Revenue officer or Revenue Court, as follows, namely —

- (a) to the Collector when the order or decree is made by an Assistant Collector of either grade,
- (b) to the Commissioner when the order or decree is made by a Collector,
- (c) to the Financial Commissioner when the order or decree is made by a Commissioner

Provided that—

- (i) an appeal from an order or decree made by an Assistant Collector of the first grade specially empowered by name in that behalf by the ~~Local~~ ^{Provincial} Government in a suit mentioned in the first group of sub-section (3) of section 77 shall lie to the Commissioner and not to the Collector
- (ii) when an original order or decree is confirmed on first appeal a further appeal shall not lie,
- (iii) when any such order or decree is modified or reversed on appeal by the Collector, the order or decree made by the Commissioner on further appeal, if any, to him shall be final

Limitation
for appeals.

81. The period of limitation for an appeal under the last foregoing section shall run from the date of the order or decree appealed against and shall be as follows that is to say —

- (a) when the appeal lies to the Collector—thirty days,
- (b) when the appeal lies to the Commissioner—sixty days
- (c) when the appeal lies to the Financial Commissioner—ninety days

Review by
Revenue-
officers.

82. (1) A Revenue officer as such, may either of his own motion or on the application of any party interested review and on so reviewing modify reverse or confirm any order passed by himself or by any of his predecessors in office

Provided as follows —

- (a) when a Commissioner or Collector thinks it necessary to review any order which he has not himself passed and when a Revenue-officer of a class below that of Collector proposes to review any order whether passed by himself or by any of his predecessors in office he shall first obtain the sanction of the Revenue officer to whose control he is immediately subject
- (b) an application for review of an order shall not be entertained unless it is made within ninety days from the passing of the order or unless the applicant satisfies the Revenue officer that he had sufficient cause for not making the application within that period

(c) an order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order;

(d) an order against which an appeal has been preferred shall not be reviewed

(2) For the purposes of this section the Collector shall be deemed to be the successor in office of any Revenue-officer of a lower class who has left the district or has ceased to exercise powers as a Revenue-officer, and to whom there is no successor in office

(3) An appeal shall not lie from an order refusing to review, or confirming on review, a previous order

377. 83. In the computation of the period for an appeal from, or an application for the review of, an order under this Act, the limitation therefor shall be governed by the Indian Limitation Act, 1877.*

Computation of periods limited for appeals and applications for review

84. (1) The Financial Commissioner may at any time call for the record of any case pending before, or disposed of by, any Revenue-officer or Revenue Court subordinate to him

Power to call for, examine and revise proceedings of Revenue officers and Revenue Courts

(2) A Commissioner or Collector may call for the record of any case pending before, or disposed of by, any Revenue-officer or Revenue Court under his control

(3) If in any case in which a Commissioner or Collector has called for a record he is of opinion that the proceedings taken or the order or decree made should be modified or reversed, he shall submit the record with his opinion on the case for the orders of the Financial Commissioner.

(4) If, after examining a record called for by himself under sub-section (1) or submitted to him under sub-section (3) the Financial Commissioner is of opinion that it is inexpedient to interfere with the proceedings or the order or decree, he shall pass an order accordingly

(5) If, after examining the record the Financial Commissioner is of opinion that it is expedient to interfere with the proceedings or the order or decree on any ground on which the High Court in the exercise of its revisional jurisdiction may under the law for the time being in force interfere with the proceedings or an order or decree of a Civil Court, he shall fix a day for hearing the case, and may, on that or any subsequent day to which he may adjourn the hearing or which he may appoint in this behalf, pass such order as he thinks fit in the case

(6) Except when the Financial Commissioner fixes under sub-section (5) a day for hearing the case, no party has any right to be heard before the Financial Commissioner when exercising his powers under this section.

Provincial Procedure

Procedure
of Revenue
officers

85. (1) The ~~Local~~ Government may make rules consistent with this Act for regulating the procedure of Revenue-officers under this Act in cases in which a procedure is not prescribed by this Act

(2) The rules may provide among other matters, for the mode of enforcing orders of ejectment from and delivery of possession of immovable property, and rules providing for those matters may confer on a Revenue officer all or any of the powers in regard to contempt, resistance and the like which a Civil Court may exercise in the execution of a decree whereby it has adjudged ejectment from or delivery of possession of, such property

(3) The rules may also provide for the mode of executing order as to costs and may adapt to proceedings under this Act all or any of the provisions of the Punjab Land Revenue Act 1887, with respect to arbitration

(4) Subject to the rules under this section, a Revenue officer may refer any case which he is empowered to dispose of under this Act to another Revenue officer for investigation and report, and may decide the case upon the report

Persons by
whom ap-
pearances
may be made
before Revenue-officers
as such and
not as Revenue Courts

86. (1) Appearances before a Revenue-officer as such, and applications to and acts to be done before him under this Act may be made or done—

(a) by the parties themselves or

(b) by their recognized agents or a legal practitioner

Provided that the employment of a recognized agent or legal practitioner shall not excuse the personal attendance of a party to any proceeding in any case in which personal attendance is specially required by an order of the officer

(2) For the purposes of sub-section (1) recognised agents shall be such persons as the ~~Local~~ Government may by notification declare in this behalf

(3) The fees of a legal practitioner shall not be allowed as costs in any proceeding before a Revenue officer under this Act unless that officer considers, for reasons to be recorded by him in writing, that the fees should be allowed

Costs.

87. (1) A Revenue officer may give and apportion the costs of any proceeding under this Act in any manner he thinks fit,

(2) But if he orders that the costs of any such proceeding shall not follow the event, he shall record his reasons for the order

Procedure of
Revenue
Courts

88. (1) The ~~Local~~ Government may make rules consistent with this Act for regulating the procedure of Revenue Courts in matters under this Act for which a procedure is not prescribed thereby and may by any such rule direct that any provisions of the Code of Civil Procedure* shall apply, with or without modification to all or any classes of cases before those Courts

* See now Act V of 1908

(2) Until rules are made under sub-section (1) and subject to those rules when made and to the provisions of this Act,—

(a) the Code of Civil Procedure shall, so far as it is applicable, apply to all proceedings in Revenue Courts whether before or after decree; and

(b) the Financial Commissioner shall, in respect of those proceedings, be deemed to be the High Court within the meaning of that Code, and shall, subject to the provisions of this Act, exercise, as regards the Courts under his control, all the powers of a High Court under the Code

89. (1) A Revenue officer or Revenue Court may summon any person whose attendance he or it considers necessary for the purpose of any application, suit or other business before him or it as a Revenue-officer or Revenue Court

Power of
Revenue
officer or
Revenue
Court to
summon
persons

(2) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person or, if the summons so allows, by his recognized agent or a legal practitioner

(3) The person attending in obedience to the summons shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as the Revenue-officer or Revenue Court may require

90. (1) A summons issued by a Revenue-officer or Revenue Court shall, if practicable be served (a) personally on the person to whom it is addressed, or failing him on (b) his recognized agent or (c) in adult male member of his family who is residing with him

Mode of
service of
summons.

(2) If service cannot be so made, or if acceptance of service so made is refused the summons may be served by posting a copy thereof at the usual or last known place of residence of the person to whom it is addressed or, if that person does not reside in the district in which the Revenue-officer is employed or the Revenue Court is held, and the case to which the summons relates has reference to land in that district then by posting a copy of the summons on some conspicuous place in or near the estate wherein the land is situate

(3) If the summons relates to a case in which persons having the same interest are so numerous that personal service on all of them is not reasonably practicable it may, if the Revenue-officer or Revenue Court so directs be served by delivery of a copy thereof to such of those persons as the officer or Court nominates in this behalf and by proclamation of the contents thereof for the information of the other persons interested

(4) A summons may, if the Revenue-officer or Revenue Court so directs be served on the person named therein or other in addition to, or in substitution for any other mode of service by forwarding the

summons by post in a letter addressed to the person and registered under Part III of the Indian Post Office Act, 1866 *

(5) When a summons is so forwarded in a letter and it is proved that the letter was properly addressed and duly posted and registered, the officer or Court may presume that the summons was served at the time when the letter would be delivered in the ordinary course of post

Mode of service of notice order or proclamation or copy thereof

91. A notice order or proclamation, or copy of any such document, issued by a Revenue officer or Revenue Court for service on any person shall be served in the manner provided in the last foregoing section for the service of a summons

Mode of making proclamation.

92. When a proclamation relating to any land is issued by a Revenue officer or Revenue Court, it shall, in addition to any other mode of publication which may be prescribed by any enactment for the time being in force, be made by beat of drum or other customary method and by the posting of a copy thereof on a conspicuous place in or near the land to which it relates

Joinder of tenants as parties to proceedings relating to rent

93. (1) Any number of tenants cultivating in the same estate may in the discretion of the Revenue officer or Revenue Court and subject to any rules which the ~~Local~~ ^{Provincial} Government may make in this behalf, be made parties to any proceeding under Chapter III,

(2) But a decree or order shall not be made in any such proceeding unless the Revenue officer or Revenue Court is satisfied that all the parties thereto have had an opportunity of appearing and being heard

(3) A decree or order made in any such proceeding shall specify the extent to which each of the tenants is affected thereby

Exception of suits under this Act from operation of certain enactments Payment into Court of money admitted to be due to third person

94. Nothing in section 424 of the Code of Civil Procedure,† or section 36 of the Punjab Municipal Act, 1884,‡ shall be construed to apply to a suit of a class mentioned in section 77 of this Act

95 (1) When a defendant admits that money is due from him on account of rent, but pleads that it is due not to the plaintiff but to a third person the Court shall, except for special reasons to be recorded by it refuse to take cognizance of the plea unless the defendant pays into Court the amount so admitted to be due

(2) Where such a payment is made the Court shall forthwith cause notice of the payment to be served on the third person

(3) Unless the third person within three months from the receipt of the notice institutes a suit against the plaintiff and therein obtains an order restraining payment of the money it shall be paid to the plaintiff on his application to the Court therefor

(4) Nothing in this section shall affect the right of any person to recover from the plaintiff money paid to him under sub-section (3)

* See now the Indian Post Office Act 1898 (VI of 1898)

† See now the Act V of 1908 section 80

‡ See now the Punjab Municipal Act 1911 (III of 1911) section 49

(5) When a defendant pays money into Court under this section the Court shall give the defendant a receipt, and the receipt so given shall operate as an acquittance in the same manner and to the same extent as if it had been given by the plaintiff or the third person, as the case may be

96. A Court passing a decree for an arrear of rent may, on the oral application of the decree-holder, order execution thereof against the movable property of the tenant, and against any uncut or un-gathered crops on the tenancy in respect of which the arrear is decreed

Execution of decrees for arrears of rent.

97. A tenant shall not during the continuance of his occupancy be liable to imprisonment on the application of his landlord in execution of a decree for an arrear of rent

Prohibition of imprisonment of tenants in execution of decrees for arrears of rent.

98. (1) If, in any proceeding pending before a Revenue Court exercising original, appellate or revisional jurisdiction, it appears to the Court that any question in issue is more proper for decision by a Civil Court, the Revenue Court may, with the previous sanction of the Court, if any, to the control of which it is immediately subject, require by order in writing, any party to the proceeding to institute within such time as it may fix in this behalf, a suit in the Civil Court for the purpose of obtaining a decision on the question, and, if he fails to comply with the requisition, may decide the question as it thinks fit

Power to refer party to Civil Court.

(2) If the party institutes the suit in compliance with the requisition, the Revenue Court shall dispose of the proceeding pending before it in accordance with the final decision of the Civil Court of first instance or appeal, as the case may be

99. (1) If the presiding officer of a Civil or Revenue Court in which a suit has been instituted doubts whether he is precluded from taking cognizance of the suit, he may refer the matter through the District Judge or Commissioner, or, if he is a District Judge or Commissioner directly to the High Court

Power to refer to High Court questions as to jurisdiction.

(2) On any such reference being made, the High Court may order the presiding officer either to proceed with the suit or to return the plaint for presentation in such other Court as it may in its order declare to be competent to take cognizance of the suit

(3) The order of the High Court on any such reference shall be conclusive as against persons who are not parties to the suit as well as against persons who are parties thereto.

100. (1) In either of the following cases, namely:—

(a) if it appears to a Civil Court that a Court under its control has determined a suit of a class mentioned in section 77 which under the provisions of that section should have been heard and determined by a Revenue Court, or

Power of High Court to vacate proceedings made under its sole jurisdiction.

- (b) if it appears to a Revenue Court that a Court under its control has determined a suit which should have been heard by a Civil Court,

the Civil Court or Revenue Court, as the case may be, shall submit the record of the suit to the High Court.

(2) If on perusal of the record it appears to the High Court that the suit was so determined in good faith, and that the parties have not been prejudiced by the mistake as to jurisdiction, the High Court may order that the decree be registered in the Court which had jurisdiction

(3) If it appears to the High Court, otherwise than on submission of a record under sub-section (1) that a Civil Court under its control has determined a suit of a class mentioned in section 77 which under the provisions of that section should have been heard and determined by a Revenue Court, the High Court may pass any order which it might have passed if the record had been submitted to it under that sub-section.

(4) With respect to any proceeding subsequent to decree, the High Court may make such order for its registration in a Revenue Court or Civil Court as in the circumstances appears to be just and proper

(5) An order of the High Court under this section shall be conclusive as against persons who were not parties to the suit or proceeding as well as against persons who were parties thereto, and the decree or proceeding to which the order relates shall have effect as if it had been made, or had by the Court in which the order has required it to be registered.

(6) The provisions of this section shall apply to any suit instituted on or after the first day of November, 1884, and to proceedings arising out of any such suit.

Miscellaneous.

Place of sitting.

101. (1) An Assistant Collector may exercise his powers under this Act at any place within the limits of the district in which he is employed

(2) Any other Revenue-officer or Revenue Court may only exercise his or its powers under this Act within the local limits of his or its jurisdiction.

Holidays.

102. (1) The Financial Commissioner, with the approval of the ~~Local~~ Government, shall publish in the local official Gazette before the commencement of each calendar year a list of days to be observed in that year as holidays by all or any Revenue-officers and Revenue Courts

re a Revenue-officer or Revenue Court as a day to be observed by the not be ~~invited~~ by reason only of

to be observed on that day.

103. When a Collector dies or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the district under any orders which may be generally or specially issued by the ~~Local~~ Government in this behalf shall be deemed to be a Collector under this Act. Discharge of duties of Collector dying or being disabled.

104. When a Revenue-officer of any class who, either as such or as a Revenue Court, has under the foregoing provisions of this Act any powers to be exercised in any local area is transferred from that local area to another as a Revenue-officer or Revenue Court of the same or a higher class, he shall continue to exercise those powers in that other local area, unless the Local Government otherwise directs, ~~he~~ has otherwise directed. Retention of powers by Revenue-officers on transfer.

105. (1) The ~~Local~~ ^{Financial} Government may by notification confer on any person— Conferment of powers of Revenue-officer or Revenue Court.

(a) all or any of the powers of a Financial Commissioner, Commissioner or Collector under this Act, or

(b) all or any of the powers with which an Assistant Collector of either grade is, or may be, invested thereunder,

and may by notification withdraw any powers so conferred.

(2) A person on whom powers are conferred under sub-section (1) shall exercise those powers within such local limits and in such classes of cases as the ~~Local~~ Government may direct, and, except as otherwise directed by the Local Government, shall for all purposes connected with the exercise thereof be deemed a Financial Commissioner, Commissioner, Collector or Assistant Collector, as the case may be.

(3) Before conferring powers on the Judge of a Civil Court under sub-section (1), the ~~Local~~ Government shall consult the High Court.

(4) If any of the powers of a Collector under section 78, section 79, section 80 or section 82 are conferred on an Assistant Collector, they shall, unless the ~~Local~~ Government by special order otherwise directs, be exercised by him subject to the control of the Collector.

106. (1) The Financial Commissioner may, in addition to the other rules which may be made by him under this Act, make rules consistent with this Act and any other enactment for the time being in force,— Power for Financial Commissioner to make rules.

(a) determining, notwithstanding anything in any record-of-rights, the number and amount of the instalments and the times by and at which rent is to be paid;

(b) for the guidance of Revenue-officers in determining, for the purposes of this Act, the amount of the land-revenue of any land;

(c) prescribing, for all or any of the territories to which this Act extends, the periods during which, in proceedings held under this Act, a Revenue-officer or Revenue Court is not, except for reasons of urgency

to be recorded, to issue any process of arrest against a tenant or against a landowner who cultivates his own land,

- (d) regulating the procedure in cases where persons are entitled to inspect records of Revenue offices or Revenue Courts or to obtain copies of the same, and prescribing the fees payable for searches and copies,
- (e) prescribing forms for such books, entries, statistics and accounts as the Financial Commissioner thinks necessary to be kept made or compiled in Revenue offices or Revenue Courts or submitted to any authority,
- (f) declaring what shall be the language of any of those offices and Courts and determining in what cases persons practising in those offices and Courts shall be permitted to address the presiding officers thereof in English and
- (g) generally for the guidance of Revenue officers and other persons in matters connected with the enforcement of this Act

(2) Until rules are made under clause (a) of sub section (1), rent shall be payable by the instalments and at the times by and at which it is now payable

(3) Rules made by the Financial Commissioner under this or IV of any other section of this Act shall be made subject to the control of the ~~Local~~ Government

107. The power to make any rules under this Act is subject to the condition of the rules being made after previous publication

108. All powers conferred by this Act on the Financial Commissioner may be exercised from time to time as occasion requires

CHAPTER VIII

EFFECT OF THIS ACT ON RECORDS OF RIGHTS AND AGREEMENTS

109. In entry in any record of rights providing—

- (a) that a landlord may prevent a tenant from making, or eject him for making such improvements on his tenancy as he is entitled to make under this Act, or
- (b) that a tenant ejected from his tenancy shall not be entitled to compensation for improvements or for disturbance in any case in which he would under this Act be entitled to compensation therefor, or
- (c) that a landlord may eject a tenant otherwise than in accordance with the provisions of this Act,

shall be void to that extent

Rules to be made after previous publication. Powers exercisable by Financial Commissioner from time to time.

Nullity of certain entries in records of rights

110. (1) Nothing in any agreement made between a land-^{Nullity of}lord and a tenant after the passing of this Act shall—^{certain}

^{agreements}
^{contrary to}
^{the Act.}

(a) override any of the provisions of this Act with respect to the acquisition of a right-of-occupancy, or the reduction, remission or suspension of rent, or the enhancement of the rent of a tenant having a right-of-occupancy under section 5 or section 6, or

(b) take away or limit the right of a tenant as determined by this Act to make improvements and claim compensation therefor, or, where compensation for disturbance can be claimed under this Act, to claim such compensation, or

(c) entitle a landlord to eject a tenant otherwise than in accordance with the provisions of this Act.

(2) Nothing in clause (a) of sub-section (1) shall apply to an agreement by which a tenant binds himself to pay an enhanced rent in consideration of an improvement which has been, or is to be, made in respect of his tenancy by, or at the expense of, his landlord, and to the benefit of which the tenant is not otherwise entitled.

111. Save as expressly provided in this Act, nothing in this Act shall affect the operation of any agreement between a landlord and a tenant, when the agreement either is in writing or has been recorded in a record-of-rights before the passing of the Punjab Land Revenue Act, 1887, or been entered by order of a Revenue-officer in a record-of-rights or annual record under the provisions of that Act.

^{Saving of}
^{other agree-}
^{ments when}
^{in writing.}

112. An entry made with respect to any of the following matters before the eighteenth day of November, 1871, and attested by the proper officer, in the record of a regular settlement sanctioned by the ~~Provincial~~ ^{Local} Government, namely:—

^{Effect of}
^{certain}
^{entries made}
^{in records-of}
^{rights before}
^{November}
^{1871.}

(a) the enhancement or abatement of the rent of a tenant having a right of occupancy, or ~~the~~ commutation of rent in kind into rent in money or of rent in money into rent in kind, or the taking of rent in kind by division or appraisement of the produce or other procedure of a like nature, or

(b) the letting or under-letting of land in which there is a right of occupancy by the tenant having that right, or the alienation of or succession to land in which such a right subsists,

shall be deemed to be an agreement within the meaning of the last foregoing section.

THE PUNJAB ALIENATION OF LAND ACT, 1900.

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(e) any right to water enjoyed by the owner or occupier of land as such; and

“(g) all trees standing on such ^{land} permanent alienation” includes sales, exchanges, gifts, wills and grants of occupancy rights (of)

(5) the expression “usufructuary mortgage” means a mortgage by which the mortgagor delivers possession of the mortgaged land to the mortgagee and authorizes him to retain such possession until payment of the mortgage-money, and to receive the rents and profits of the land and to appropriate them in lieu of interest or in payment of the mortgage-money or partly in lieu of interest and partly in payment of the mortgage-money, and

(6) the expression “conditional sale” includes any agreement whereby in default of payment of the mortgage-money or interest at a certain time the land will be absolutely transferred to the mortgagee

Application of Act to sections 53 and 54 Act XVI, 1887 2-A. Notwithstanding anything contained in sections 53 and 54 of the Punjab Tenancy Act, 1887, when a landlord makes a claim to exercise the rights thereby conferred upon him the provisions of this Act shall apply thereto

II—PERMANENT ALIENATION OF LAND

Sanction of Deputy Commissioner required to certain permanent alienations

3. (1) A person who desires to make a permanent alienation of his land shall be at liberty to make such alienation where—

- (a) the alienor is not a member of an agricultural tribe, or
- (b) *Repealed by Punjab Act I of 1907, section 4 (1);*
- (c) the alienor is a member of an agricultural tribe and the alienee is a member of the same tribe or of a tribe in the same group,

[*Proviso to this sub section repealed by Punjab Act I 1907, section 4 (1)*]

(2) Except in the cases provided for in sub-section (1), a permanent alienation of land shall not take effect as such unless and until sanction is given thereto by a Deputy Commissioner;

“Provided that—

- (1) sanction may be given after the act of alienation is otherwise completed, and
- (2) sanction shall not be necessary in the case of—
 - (a) a sale of a right of occupancy by a tenant to his landlord, or
 - (b) a gift made in good faith for a religious or charitable purpose, whether *inter vivos* or by will”

on, or (if no term is agreed on, or if the term agreed on exceeds twenty years), after the expiry of twenty years, the land shall be redelivered to the mortgagor, or

- (b) in the form of a mortgage without possession, subject to the condition that, if the mortgagor fails to pay principal and interest according to his contract, the mortgagee may apply to the Deputy Commissioner to place him in possession for such term, not exceeding twenty years, as the Deputy Commissioner may consider to be equitable, the mortgage to be treated as a usufructuary mortgage for the term of the mortgagee's possession and for such sum as may be due to the mortgagee on account of the balance of principal due and of interest due not exceeding the amount claimable as simple interest at such rate and for such period as the Deputy Commissioner thinks reasonable, or
- (c) in the form of a written usufructuary mortgage by which the mortgagor recognises the mortgagee as a landlord and himself remains in cultivating occupancy of the land as a tenant subject to the payment of rent at such rate as may be agreed upon not exceeding sixteen annas per rupee of the amount of the land revenue in addition to the amount of the land-revenue of the tenancy and the rates and cesses chargeable thereon and for such term as may be agreed on, the mortgagor

- (1) having no right to alienate his right of cultivating occupancy and the mortgagee having no right to eject the mortgagor unless on the grounds mentioned in section 39 of the Punjab Tenancy Act, 1887, or
- (2) in any form which the ^{Provincial} Local Government may, by general or special order, permit to be used

(2) If in the case of a mortgagee in form (c) the mortgagor is ejected or relinquishes or abandons cultivating occupancy of the land the mortgage shall take effect as a usufructuary mortgage in form (a) for such term not exceeding twenty years from the date of ejectment relinquishment or abandonment and for such sum of money as the Deputy Commissioner considers to be reasonable

(3) The Deputy Commissioner if he accepts the application of a mortgagee under sub-section (1) (b) shall have power to eject the mortgagor and as against the mortgagor to place the mortgagee in possession

7 In the case of mortgages made under section 6—

- (1) no interest shall accrue during the period for which the mortgagee is in possession of the land or in receipt of rent
- (2) if the mortgage is in form (a) or form (b), then at the end of such period of possession the mortgage-debt shall be extinguished
- (3) the mortgagor may redeem his land at any time during the currency of the mortgage on payment of the mortgage debt or in the case of a mortgage in form (a) or form (b) of such proportion of the mortgage-debt as the Deputy Commissioner determines to be equitable
- (4) in the case of a usufructuary mortgage the mortgagor shall not be deemed to bind himself personally to repay the mortgage money, and
- (5) if a mortgagor who has applied to the Deputy Commissioner under sub-section (3) proves to the satisfaction of the Deputy Commissioner that he has paid the mortgage-debt or such proportion of the mortgage-debt as the Deputy Commissioner has determined to be equitable or deposits with the Deputy Commissioner the amount of such mortgage-debt or of such proportion thereof the redemption of the land shall be deemed to have taken place and the Deputy Commissioner shall have power to eject the mortgagee if in possession and as against the mortgagee to place the mortgagor in possession

Rules applying to permitted mortgages

8. (1) In a mortgage made under section 6, the following conditions may be added by agreement between the parties — Conditions in permitted mortgages

(a) a condition fixing the time of the agricultural year at which a mortgagor redeeming his land may resume possession thereof,

(b) conditions limiting the right of a mortgagor or mortgagee in possession to cut sell or mortgage trees or to do any act affecting the permanent value of the land, and

(c) any condition which the ^{Provincial} ~~Local~~ Government by general or special order may declare to be admissible

(2) In mortgages made under section 6 any condition not permitted by or under this Act shall be null and void

9. (1) If a member of an agricultural tribe makes a mortgage of his land in any manner or form not permitted by or under this Act, the Deputy Commissioner shall have authority to revise and alter the terms of the mortgage so as to bring it into accordance with such form of mortgage permitted by or under this Act as the mortgagee appears to him to be equitably entitled to claim Power to revise mortgage made in form not permitted.

(2) If a member of an agricultural tribe has before the commencement of this Act made a mortgage of his land in which there is a condition intended to operate by way of conditional sale, the Deputy Commissioner shall be empowered at any time during the currency of the mortgage to put the mortgagee to his election whether he will agree to the said condition being struck out or to accept in lieu of the said mortgage a mortgage which may at the mortgagee's option be either in form (a) or in form (b) as permitted by section 6 and which shall be made for such period not exceeding the period permitted by the said section and for such sum of money as the Deputy Commissioner considers to be reasonable

(3) If proceedings for the enforcement of a condition intended to operate by way of conditional sale are instituted or are pending at the commencement of this Act in any Civil Court or if a suit is instituted in any Civil Court on a mortgage to which sub section (1) or sub section (2) applies the Court shall refer the case to the Deputy Commissioner with a view to the exercise of the power conferred by the sub section applying thereto

(4) When a mortgagee put to his election under sub section (2) agrees to accept in lieu of his mortgage a mortgage in form (a) or in form (b) as permitted by section 6 for the period and for the sum of money considered by the Deputy Commissioner to be reasonable, and the mortgagor cannot be found, or fails to appear when duly served with notice to do so or refuses or neglects to execute such mortgage the Deputy Commissioner shall have authority to execute such mortgage on such terms as to costs as he may fix and the mortgage so executed shall have effect as if it had been executed by the mortgagor. The Deputy Commissioner may for any reason

20 No legal practitioner shall appear on behalf of any party interested in any proceeding before a Revenue officer under this Act

Explanation—The term 'legal practitioner' includes a *mukhtar*

21. (1) A Civil Court shall not have jurisdiction in any matter which the Local Government or a Revenue officer is empowered by this Act to dispose of

(2) A Civil Court shall take cognisance of the manner in which the Local Government or any Revenue officer exercises any power vested in it or in him by or under this Act

***21-A.** (1) Notwithstanding anything contained in the Code of Civil Procedure or in any other Act for the time being in force every Civil Court which passes a decree or order involving (1) the permanent alienation of his land by a member of an agricultural tribe or (2) the mortgage by a member of an agricultural tribe of his land when the mortgagee is not a member of the same tribe or of a tribe in the same group, shall send to the Deputy Commissioner a copy of such decree or order

(2) When it appears to the Deputy Commissioner that any Civil Court has either before or after the date when this section comes into operation, passed a decree or order contrary to any of the provisions of this Act, the Deputy Commissioner may apply for the revision of such decree or order to the Court if any, to which an appeal would lie from such decree or order or in which an appeal could have been instituted at the time when the decree or order was passed, or in any other case to the High Court. And when the Court finds that such decree or order is contrary to any of the provisions of this Act it shall alter it so as to make it consistent with this Act. Such application shall be made within two months of the date upon which the Deputy Commissioner is informed of such decree or order

(3) When any such appellate Court passes an order rejecting such application the Deputy Commissioner may within two months after the date upon which he is informed of such order, apply to the High Court for revision thereof

(4) Every Civil Court which passes an order on any application made under this section shall forthwith send a copy thereof to the Deputy Commissioner

(5) No stamp shall be required upon such applications, and the provisions of the Code of Civil Procedure as regards appeals shall apply so far as may be to the procedure of the Court on receipt of such application

Provided that no appearance by or on behalf of the Deputy Commissioner shall be deemed necessary for the disposal of the application

22. In sub-section (3) of section 77 of the Punjab Tenancy Act, 1857, the following words shall be added to clause (c) of the First Group of suits therein mentioned, namely —

Addition to section 77 Act XVI, 1887

“ and suits relating to the rent to be paid under a mortgage made in accordance with form (c) as prescribed by section 6 of the Punjab Alienation of Land Act, 1900 ”

23. The powers conferred by this Act upon a Deputy Commissioner may be exercised by a Revenue officer of higher rank, or by any officer authorised by the Provincial Government in this behalf

Exercise of powers of Deputy Commissioner

24. The Provincial Government, may, by notification in the local official Gazette, exempt any district or part of a district or any person or class of persons from the operation of this Act or of any of the provisions thereof

Exemption.

25. (1) The Provincial Government may make rules for carrying into effect the purposes of this Act

Power to make rules

(2) In particular and without prejudice to the generality of the foregoing power, the Provincial Government may make rules prescribing the Revenue-officers to whom applications may be made, and the manner and form in which such applications shall be made and disposed of.



PUNJAB PRE-EMPTION ACT, 1913

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- 2 Repeal of certain enactments
- 3 Definitions

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- 5 No right of pre-emption in respect of certain buildings
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- 28 Concurrent hearing of suits
- 29 Copy of decree to be sent to Deputy Commissioner, application for revision

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- 30 Limitation

PUNJAB PRE-EMPTION ACT No. I OF 1913

PASSED BY THE LIEUTENANT-GOVERNOR OF THE PUNJAB IN COUNCIL.

(Received the assent of His Honour the Lieutenant Governor on the 8th February 1913 and that of His Excellency the Viceroy and Governor-General on the 1st March 1913, the Governor-General's assent was first published in the "Punjab Government Gazette" of 14th March 1913)

As amended by Punjab Act II of 1928

WHEREAS it is expedient to amend the law relating to pre-emption in the Punjab,

It is hereby enacted as follows —

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1. (1) This Act may be called the Punjab Pre-emption Act, Short title and local extent.
1913

(2) It extends to the Punjab

2. (1) The Punjab Pre-emption Act 1905, is hereby repealed Repeal of certain enactments

21, rule 88 of the Code of Civil Procedure 1908, or sections 53 and 54 of the Punjab Tenancy Act, 1887

(3) Notwithstanding anything to the contrary in section 4 of the Punjab General Clauses Act, 1898 the Courts shall in all suits, appeals and proceedings pending at the commencement of this Act give effect, so far as may be, to the procedure prescribed by this Act

3. In this Act, unless a different intention appears from the Definitions, subject or context,—

(1) 'agricultural land' shall mean land as defined in the Punjab Alienation of Land Act 1900 (as amended by Act I of 1907) but shall not include the rights of a mortgagee whether usufructuary or not, in such land,

(2) 'village immoveable property' shall mean immoveable property within the limits of a village other than agricultural land

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.

CORRECTION SLIP NO 127 P L A, DATED LAHORE, THE 5TH OCTOBER, 1938

The Punjab Land Administration Acts, volume I.

The Punjab Pre-emption Act, no. 1 of 1913

Sections 3 (3) and 8 (1), pages 3 and 4

In correction slip no 16 P L A, dated 29th June, 1937, insert the following in the margin —

"The Government of India (Adaptation of Indian Laws) Order, 1937".

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(1) 'agricultural land' shall mean land as defined in the Punjab Alienation of Land Act, 1900 (as amended by Act I of 1907), but shall not include the rights of a mortgagee whether usufructuary or not, in such land;

(2) 'village immovable property' shall mean immovable property within the limits of a village other than agricultural land,

'urban immovable property' shall mean immovable property within the limits of a town, other than agricultural land For the purposes of this Act a specified

shall be deemed to be a town (a) if so declared

Local Government by notification in the official

(b) if so found by the Courts,

(4) 'member of an agricultural tribe' and 'group of agricultural tribes' shall have the meanings assigned to them respectively under the Punjab Alienation of Land Act, 1900

(5) sale shall not include—

(a) a sale in execution of a decree for money or of an order of a Civil, Criminal or Revenue Court or of a Revenue officer,

(b) the creation of an occupancy tenancy by a landlord, whether for consideration or otherwise,

(6) any expression which is defined by section 3 of the Punjab Land Revenue Act, 1897, shall, subject to the provisions of this Act, have the meaning assigned to it in the said section

CHAPTER II

GENERAL PROVISIONS

Right of pre-emption, application of—

4 The right of pre-emption shall mean the right of a person to acquire agricultural land or village immoveable property or urban immoveable property in preference to other persons and it arises in respect of such land only in the case of sales and in respect of such property only in the case of sales or of foreclosures of the right to redeem such property

Nothing in this section shall prevent a Court from holding that an alienation purporting to be other than a sale is in effect a sale

No right of pre-emption in respect of certain buildings

5. No right of pre-emption shall exist in respect of the sale of or the foreclosure of a right to redeem—

(a) a shop, serai or katra,

(b) a dharamsala mosque or other similar building

Exists in agricultural land and village immoveable property

6 A ——— land and subject to

n respect of agricultural very such right shall be in this Act contained

Exists under certain conditions in urban immoveable property

7 Subject to the provisions of section 5, a right of pre-emption shall exist in respect of urban immoveable property in any town or sub-division of a town when a custom of pre-emption is proved to have been in existence in such town or sub-division at the time of the commencement of this Act, and not otherwise

Local Government may exclude areas from pre-emption

8. (1) Except as may otherwise be declared in the case of any agricultural land in a notification by the Local Government, no right of pre-emption shall exist within any cantonment

(2) The Local Government may declare by notification that in any local area or with respect to any land or property or class of land or property or with respect to any sale or class of sales no right of pre-emption or only such limited right as the Local Government may specify shall exist

9 Notwithstanding anything in this Act, a right of pre-emption shall not exist in respect of any sale made by or to the ^{Government} or by or to any local authority or to any company under the provisions of Part VII of the Land Acquisition Act, 1894, or in respect of any sale sanctioned by the Deputy Commissioner under section 3 (2) of the Punjab Alienation of Land Act, 1900

Exclusion of pre-emption in respect of certain alienation

10 In the case of a sale by joint owners, no party to such sale shall be permitted to claim a right of pre-emption

Party to alienation cannot claim pre-emption.

11 No sum deposited in or paid into Court by a pre-emptor under the provisions of this Act or of the Code of Civil Procedure shall, while it is in the custody of the Court, be liable to attachment in execution of a decree, or order of a Civil, Criminal or Revenue Court or of a Revenue officer

Sum deposited by pre-emptor not to be attached.

CHAPTER III

PERSONS IN WHOM THE RIGHT OF PRE-EMPTION VESTS

12 In respect of all sales and foreclosures not completed before the commencement of this Act the right of pre-emption shall be determined by the provisions of this Act, but in respect of all sales and foreclosures completed before the commencement of this Act the right of pre-emption shall be determined by the law in force at the time of such completion

The Law determining the right of pre-emption.

13 Whenever according to the provisions of this Act a right of pre-emption vests in any class or group of persons the right may be exercised by all the members of such class or groups jointly, and, if not exercised by them all jointly by any two or more of them jointly, and if not exercised by any two or more of them jointly, by them severally

Joint right of pre-emption how exercised

14 No person other than a person who was at the date of sale a member of an agricultural tribe in the same group of agricultural tribes as the vendor shall have a right of pre-emption in respect of agricultural land sold by a member of an agricultural tribe

Limit of exercise of right in respect of land sold by member of an agricultural tribe

15 Subject to the provisions of section 14 the right of pre-emption in respect of agricultural land and village immoveable property shall vest—

Person in who pre-emption vests in respect of sales of agricultural land and village immoveable property

- (a) where the sale is by a sole owner or occupancy tenant or, in the case of land or property jointly owned or held, by all the co-shrers jointly, in the persons in order of succession who but for such sale would be entitled, on the death of the vendor or vendors, to inherit the land or property sold

(b) where the sale is of a share out of joint land or property, and is not made by all the co-sharers jointly,—

firstly, in the lineal descendants of the vendor in order of succession,

Secondly, in the co sharers if any, who are agnates, in order of succession,

thirdly, in the persons, not included under *firstly* or *secondly* above, in order of succession, who but for such sale would be entitled, on the death of the vendor, to inherit the land or property sold,

fourthly, in the co sharers

(c) if no person having a right of pre-emption under clause (a) or clause (b) seeks to exercise it,—

firstly, when the sale affects the superior or inferior proprietary right and the superior right is sold, in the inferior proprietors, and when the inferior right is sold, in the superior proprietors,

secondly, in the owners of the *patti* or other sub-division of the estate within the limits of which such land or property is situate

thirdly in the owners of the estate,

fourthly, in the case of a sale of the proprietary right in such land or property, in the tenants (if any) having rights of occupancy in such land or property

fifthly, in any tenant having a right of occupancy in any agricultural land in the estate within the limits of which the land or property is situated

Explanation—In the case of sale by a female of land or property to which she has succeeded on a life tenure through her husband, son, brother or father the word 'agnates' in this section shall mean the agnates of the person through whom she has so succeeded

Person in whom right of pre-emption vests in urban (or movable) property

16. The right of pre-emption in respect of urban immoveable property shall vest,—

firstly, in the co sharers in such property, if any,

secondly, where the sale is of the site of the building or other structure, in the owners of such building or structure

thirdly, where the sale is of a property having a staircase common to other properties in the owners of such properties,

fourthly, where the sale is of property having a common entrance from the street with other properties in the owners of such properties,

fifthly, where the sale is of a servient property, in the owners of the dominant property, and *vice versa*;

sixthly, in the persons who own immovable property contiguous to the property sold

17. Where several pre-emptors are found by the Court to be equally entitled to the right of pre-emption, the said right shall be exercised—

Exercise of right of pre-emption where several persons equally entitled.

- (a) if they claim as co-sharers, in proportion among themselves to the shares they already hold in the land or property,
- (b) if they claim as heirs, whether co-sharers or not, in proportion among themselves to the shares in which but for such sale they would inherit the land or property in the event of the vendor's decease without other heirs,
- (c) if they claim as owners of the estate or recognised subdivision thereof, in proportion among themselves to the shares which they would take if the land or property were common land in the estate or the subdivision, as the case may be
- (d) if they claim as occupancy tenants in proportion among themselves to the areas respectively held by them in occupancy right
- (e) in any other case by such pre-emptors in equal shares

18. In the case of a foreclosure of the right to redeem village immovable property, the provisions of sections 15 and 17 and in the case of a foreclosure of the right to redeem urban immovable property, the provisions of sections 16 and 17 shall be construed by the Court with such alterations not affecting the substance as may be necessary or proper to adapt them to the matter before the Court

Provisions of sections 15 and 17 applicable to foreclosures mutaklis mu'landis

CHAPTER IV

PROCEDURE

19. When any person proposes to sell any agricultural land or village immovable property or urban immovable property or to foreclose the right to redeem any village immovable property or urban immovable property in respect of which any persons have a right of pre-emption he may give notice to all such persons of the price at which he is willing to sell such land or property or of the amount due in respect of the mortgage as the case may be

Notice to pre-emptors.

Such notice shall be given through any Court within the local limits of whose jurisdiction such land or property or any part thereof is situate and shall be deemed sufficiently given if it be struck up on the chaupal or other public place of the village, town or place in which the land or property is situate

20. The right of pre-emption of any person shall be extinguished unless such person shall, within the period of three months from the date on which the notice under section 19 is duly given or within such further period not exceeding one year from such date as the Court may allow present to the Court a notice for service on

Notice by pre-emptor to vendor

25. (1) If in the case of a sale the parties are not agreed as to the price at which the pre emptor shall exercise his right of pre-emption, the Court shall determine whether the price at which the sale purports to have taken place has been fixed in good faith or paid and if it finds that the price was not so fixed or paid, it shall fix as the price for the purposes of the suit the market value of the land or property

Fixing of price for purposes of suit in case of sale

(2) If the Court finds that the price was fixed in good faith or paid, it shall fix such price as the price for the purposes of the suit

Provided that when the price at which the sale purports to have taken place represents entirely or mainly a debt greatly exceeding in amount the market value of the property the Court shall fix the market value as the price of the land or property for the purposes of the suit and may put the vendee to his option either to accept such value as the full equivalent of the consideration for the original sale or to have the said sale cancelled and the vendor and vendee restored to their original position

26. If in case of a foreclosure the parties are not agreed as to the amount at which the pre emptor shall exercise his right of pre-emption the Court shall determine whether the amount claimed by the mortgagee is due under the terms of the mortgage and whether it is claimed in good faith. If it finds that the amount is so due and is claimed in good faith it shall fix such amount as the price for the purposes of the suit but if it finds that the amount is not so due or though due is not claimed in good faith it shall fix as the price for the purposes of the suit the market value of the property

Fixing of price for purposes of suit in cases of foreclosure

27. For the purpose of determining the market value the Court may consider the following among other matters as evidence of such value —

Market value how to be determined

- (a) the price or value actually received or to be received by the vendor from the vendee or the amount really due on the footing of the mortgage as the case may be
- (b) the amount of interest included in such price value or amount
- (c) the estimated amount of the average annual net assets of the land or property
- (d) the land revenue assessed upon the land or property
- (e) the value of similar land or property in the neighbourhood
- (f) the value of the land or property as shown by previous sales or mortgages

28. When more suits than one arising out of the same sale or foreclosure are pending the plaintiff in each suit shall be joined as defendant in each of the other suits and in deciding the suits the Court shall in each decree state the order in which each claimant is entitled to exercise his right

Concurrent hearing of suits.

Act 28-A (1) If in any suit for pre-emption any person bases a claim or a plea on a right of pre-emption derived from the ownership of agricultural land or other immoveable property and the

title to such land or property is liable to be defeated by the enforcement of a right of pre-emption with respect to it, the court shall not decide the claim or plea until the period of limitation for the enforcement of such right of pre-emption has expired and the suits for pre-emption (if any), instituted with respect to the land or property during the period have been finally decided.

(2) If the ownership of agricultural land or other immovable property is lost by the enforcement of a right of pre-emption, the court shall disallow the claim or plea based upon the right of pre-emption derived therefrom.

29. (1) The Court shall send to the Deputy Commissioner a copy of every original decree granting pre-emption other than a decree granting pre-emption in respect of a building or site of a building in a town or sub-division of a town, and the Deputy Commissioner may within two months from the date of the receipt of such copy, apply to the Court to which the appeal in the pre-emption suit would lie, or if no appeal lies to the Divisional Court for revision of the decree on the ground that the decision of the Court of first instance is contrary to the provisions of the Punjab Alienation of Land Act 1900.

(2) No stamp shall be required upon such application, and the provisions of the Code of Civil Procedure as regards appeals shall apply as far as may be to the procedure of the Appellate Court on receipt of such application.

(3) No appearance by or on behalf of the Deputy Commissioner shall be deemed necessary for the disposal of the application.

CHAPTER V

LIMITATION

Limitation

30. In any case not provided for by article 10 of the Second Schedule of the Indian Limitation Act, 1908, the period of limitation in a suit to enforce a right of pre-emption under the provisions of this Act shall notwithstanding anything in article 120 of the said schedule, be one year—

- (1) in the case of a sale of agricultural land or of village immovable property,
 - from the date of the attestation (if any) of the sale by a Revenue officer having jurisdiction in the register of mutations maintained under the Punjab Land Revenue Act 1887, or
 - from the date on which the vendee takes under the sale physical possession of any part of such land or property
 - whichever date shall be the earlier
- (2) in the case of a foreclosure of the right to redeem village immovable property or urban immovable property
 - from the date on which the title of the mortgagee to the property becomes absolute
- (3) in the case of a sale of urban immovable property
 - from the date on which the vendee takes under the sale physical possession of any part of the property

Copy of
decree to be
sent to
Deputy Com-
missioner
Application
(or revision).

XII

XI
18

PUNJAB DESCENT OF JAGIRS ACT, 1900.

CONTENTS.

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2. New section substituted for section 8 of Act, IV of 1872.

acceptance of the rule of descent to be so declared and either no succession has taken place since such acceptance or else in all successions which have taken place since such acceptance the assignment has in fact not devolved otherwise than it would have devolved had the said rule of descent been in force

(2) Any declaration made under sub-section (1) may be amended varied or rescinded by the ^{Provincial} Government but always subject to the proviso thereto

(3) Where the rule of descent declared under this section to prevail involves the devolution of the assignment of land revenue to a single person as
 be liable to seizure
 Court at the instance
 assignee or his successor for the time being in interest or in satisfaction of any decree or order
 no appeal shall not
 process of any
 and against the

Power to
 annex certain
 conditions to
 assignments
 when the rule
 of descent is
 varied

8 A When the ^{Provincial} Government makes any declaration under section 8 it may by notification in the local ^{Provincial} Government Gazette direct that the rule of descent thereby declared to prevail shall be subject to the following conditions or either of them, namely—

- (a) That each successor to the assignment shall be approved and accepted as such by the ^{Provincial} Government
- (b) That any successor to the assignment shall, if the Government so require, make such provision out of the assignment as the ^{Provincial} Government may consider suitable for the maintenance of the widow or widows (if any) and other members of the family (if any) of the last or any previous holder of the assignment

Provided that—

- (1) the ^{Provincial} Government shall not refuse to approve and accept as a successor to the assignment any person who by the rule of descent declared under section 8 to prevail is next in order of succession unless that person is in the opinion of the ^{Provincial} Government unfit to succeed to the assignment, and
- (2) if the ^{Provincial} Government should exercise its authority under clause (a) of this section and refuse to accept as the successor the person indicated by the rule of descent as next in order of succession, then the next person entitled to succeed after the person so rejected, who is approved and accepted by the ^{Provincial} Government, shall succeed

8-B When the ^{Provincial} Government has issued a notification under the authority of section 8 or of section 8-A of this Act, it shall have full power and authority to do all acts and things necessary to enforce the rule of descent declared by such notification to prevail and all or any of the conditions attached thereto

Power to enforce rules and conditions under sections 8 and 8 A.

8-C Notwithstanding anything to the contrary which may appear in the conditions on which any assignment has been made, the Government is hereby empowered to declare that the rules, conditions and powers enacted by sections 8, 8 A and 8-B of this Act may be made applicable after notification in the ~~Local Govern-~~ment Gazette to such assignments

Authority for Government to declare former assignments subject to the rules conditions and powers enacted by sections 8, 8 A and 8 B.

NOTE.—Government
 Exc. dated 16th July
 ment of the kind refer
 Punjab Laws Act 1872
 Descent of Jagirs Act, 1900



THE BENGAL ALLUVION AND DILUVION REGULATION, 1825

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- 2 Claims and disputes as to alluvial lands to be decided by usage when clearly recognised and established
- 3 Where no usage established claims how decided
- 4 (i) Land gained by gradual accession from recess of river or sea
Extent of interest in increment of person in possession
(ii) When river by sudden change of course intersects estates
(iii) Chars or islands thrown up in navigable river
Property therein when channel fordable
(iv) Sand banks or chars thrown up in small shallow rivers
(v) Disputes relative to lands gained by alluvion or by dereliction not provided for by Regulation
- 5 Encroachment on beds of navigable rivers and other obstructions

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*REGULATION XI OF 1825

Dated 26th May, 1825

As amended by—

PUNJAB ACT I OF 1899

ACT I OF 1903

A REGULATION FOR DECLARING THE RULES TO BE OBSERVED IN DETERMINING CLAIMS TO LANDS GAINED BY ALLUVION, OR BY DERELICTION OF A RIVER OR THE SEA

1. In consequence of the frequent changes which take place Preamble
in the channel of the principal rivers that intersect the provinces immediately subject to the Presidency of Fort William, and the shifting of the sands which lie in the beds of those rivers, chars or small islands are often thrown up by alluvion in the midst of the stream, or near one of the banks, and large portions of land are carried away by and encroachment of the river on one side, whilst accessions of land are at the same time, or in subsequent years, gained by dereliction of the water on the opposite side, similar instances of alluvion, encroachment and dereliction also sometimes occur on the sea coast which borders the southern and south eastern limits of Bengal

The lands gained from the rivers or sea by the means above-mentioned are a frequent source of contention and affray, and although the law and custom of the country have established rules applicable to such cases, these rules not being generally known, the Courts of Justice have sometimes found it difficult to determine the rights of litigant parties claiming chars or other lands gained in the manner above described

The Court of Sadr Diwani Adalat, with a view to ascertain the legal provisions of the Muhammadan and Hindu laws on the subject called for reports from their law-officers, of each persuasion, and on consideration of the reports furnished by the law officers in consequence, as well as of the decisions which have been passed by the Court of Sadr Diwani Adalat in cases brought before them in appeal which involved the rights of claimants to lands gained by alluvion, or by dereliction of rivers or the sea, the Governor General in Council has deemed it proper to enact the following rules for the general information of individuals as well as for the guidance of the Courts of Judicature, to be in force as soon as promulgated throughout the whole of the provinces subject to the Presidency of Fort William

* The whole of the Reg. XI of 1825 was declared to be in force in the Punjab by the Punjab Laws Act 1872 (IV of 1872) s. 3 and Sch. I

Short title "The Bengal Alluvion and Diluvion Regulation, 1825" see the Repealing and Amending Act 1897 (V of 1897)

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***REGULATION XI OF 1825.**

Dated 26th May, 1825.

As amended by—

PUNJAB ACT I OF 1839.

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The lands gained from the rivers or sea by the means above-mentioned are a frequent source of contention and affray, and although the law and custom of the country have established rules applicable to such cases, these rules not being generally known, the Courts of Justice have sometimes found it difficult to determine the rights of litigant parties claiming chars or other lands gained in the manner above described

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* The whole of the Reg. XI of 1825 was declared to be in force in the Punjab by the Punjab Laws Act, 1872 (IV of 1872) s. 3 and Sch. I

Short title "The Bengal Alluvion and Diluvion Regulation, 1825," see the Repealing and Amending Act, 1899 (V of 1897)

Claims and disputes as to alluvial lands to be decided by usage when clearly recognized and established

2. Whenever any clear and definite usage of shikast parast respecting the disjunction and junction of land by the encroachment or recess of a river, may have been immemorially established, for determining the rights of the proprietors of two or more contiguous estates divided by a river (such as that the main channel of the river dividing the estate shall be the constant boundary between them, whatever changes may take place in the course of the river, by encroachment on one side and accession on the other), the usage so established shall,¹ [unless and until a boundary is fixed under the provisions of section 101-A of the Punjab Land Revenue Act, 1887, as amended by the Punjab Riverain Boundaries Act 1899,] govern the decision of all claims and disputes relative to alluvial land between the parties whose estates may be liable to such usage

Where no usage established, claims how decided

3. Where² [no boundary has been fixed under the provisions of section 101 A of the Punjab Land Revenue Act, 1887, as amended by the Punjab Riverain Boundaries Act 1899 and] there may be no local usage of the nature referred to in the preceding section, the general rules declared in the following section shall be applied to the determination of all claims and disputes relative to lands gained by alluvion or dereliction either of a river or the sea

Land gained by gradual accession from recess of river or sea

4. *First*—When land may be gained by gradual accession, whether from the recess of a river or of the sea it shall be considered an increment to the tenure of the person to whose land or estate it is thus annexed, whether such land or estate be held immediately from Government by a zamindar or other superior land holder, or as a subordinate tenure, by any description of under-tenant whatever

Extent of interest in increment of person in possession.

Provided that the increment of land thus obtained shall not entitle the person in possession of the estate or tenure to which the land may be annexed to a right of property or permanent interest therein beyond that possessed by him in the estate or tenure to which the land may be annexed, and shall not in any case be understood to exempt the holder of it from the payment to Government of any assessment for the public revenue to which it may be liable under the provisions of Regulation II 1919 or of any other Regulation in force

When river by sudden change of course intersects estates

Second—The above rule shall not be considered applicable to cases in which a river, by a sudden change of its course, may break through and intersect an estate without any gradual encroachment or may by the violence of streams separate a considerable piece of land from one estate and join it to another estate without destroying the identity, and preventing the recognition of the land so removed

In such cases the land, on being clearly recognized, shall remain the property of its original owner

¹ These words were inserted by the Punjab Riverain Boundaries Act 1899 (I of 1899)

Third—When a char or island may be thrown up in a large navigable river (the bed of which is not the property of an individual), or in the sea, and the channel of the river or sea between such island and the shore may not be fordable, it shall, according to established usage, be at the disposal of ~~Government~~ *Crown*

Chars or islands thrown up in navigable river

But if the channel between such island and the shore be fordable at any season of the year, it shall be considered an accession to the land, tenure or tenures of the person or persons whose estate or estates may be most contiguous to it, subject to the several provisions specified in the first clause of this section, with respect to increment of land by gradual accession

Property therein when channel fordable

Fourth—In small and shallow rivers, the beds of which, with the jalkar right of fishery, may have been heretofore recognized as the property of individuals, any sand-bank or char that may be thrown up shall, as hitherto, belong to the proprietor of the bed of the river, subject to the provisions stated in the first clause of the present section

Sand banks or chars thrown up in small shallow rivers

Fifth—In all other cases, namely, in all cases of claims and disputes relative to land or by dereliction of a gained by

or auction ordered by Regu-

reactions on beds navigable rivers and obstructions

THE PUNJAB RIVERAIN BOUNDARIES ACT, 1899

[Incorporated in sections 101-A to F and in section 158, XVII of the Punjab Land Revenue Act, 1887, and in sections 2 and 3 of Bengal Regulation No XI of 1825]

† The words "and city" were repealed by the repealing and amending Act 1903 (I of 1903)

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LAND ACQUISITION ACT No. I OF 1894.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL
(Received the assent of the Governor-General on the 2nd February 1894)

Amended by—

ACTS IV AND X OF 1914,
ACT XVII OF 1919,
ACT XXXVIII OF 1920,
ACT XIX OF 1921,
ACT XXXVIII OF 1923 AND
ACT XVI OF 1933

AN ACT TO AMEND THE LAW FOR THE ACQUISITION
OF LAND FOR PUBLIC PURPOSES AND FOR
COMPANIES

~~WHEREAS~~

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB

CORRECTION SLIP NO. 142, DATED LAHORE, THE 13TH OCTOBER
1938.

The Punjab Land Administration Acts, volume I

The Land Acquisition Act, I of 1894

Page 5

In correction slip no 24, dated the 4th September, 1937, insert
the following in the margin :—

" The Government of India (Adaptation of Indian Laws) Order, 1937

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB

CORRECTION SLIP NO 143, DATED LAHORE, THE 13TH OCTOBER,
1938

The Punjab Land Administration Acts, volume I

The Land Acquisition Act, I of 1894

Section 3, page 5

In correction slip no. 25, dated the 4th September, 1937, insert
the following in the margin :—

" The Government of India (Adaptation of Indian Laws) Order, 1937 "

and a person shall be deemed to be interested in land if he is interested in an easement affecting the land

- (c) the expression "Collector" means the Collector of a district and includes a Deputy Commissioner and any officer specially appointed by the ~~Local Government~~ ^{Provincial Government} to perform the functions of a Collector under this Act
- (d) the expression "Court" means a principal Civil Court of original jurisdiction, unless the ~~Local Government~~ ^{Provincial Government} has appointed (as it is hereby empowered to do) a special judicial officer within any specified local limits to perform the functions of the Court under this Act
- (e) the expression "Company" means a Company registered under the Indian Companies Act 1882, or under the (English) Companies Act, 1862 to 1890, or incorporated by an Act of Parliament or of the ~~Governor General in Council~~ ^{by an Indian Law}, or by Royal Charter or Letters Patent, and includes a society registered under the ~~Societies Registration Act 1860~~ ^{XVII of 1919} and a registered society within the meaning of the Co-operative Societies Act 1912
- (f) the expression "public purpose" includes the provision of village sites in districts in which the ~~Local Government~~ ^{Provincial Government} shall have declared by notification in the official Gazette that it is customary for the Government to make such provision and
- (g) the following persons shall be deemed persons "entitled to act" as and to the extent hereinafter provided (that is to say)—

trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any such case, and that to the same extent as the persons beneficially interested could have acted free from disability

a married woman, in cases to which the English law is applicable shall be deemed the person so entitled to act, and, whether of full age or not, to the same extent as if she were unmarried and of full age, and

the guardians of minors and the committees or managers of lunatics or idiots shall be deemed respectively the persons so entitled to act to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted

Provided that—

- (i) no person shall be deemed "entitled to act" whose interest in the subject matter shall be shown to the satisfaction of the Collector or Court to be adverse to

the interest of the person interested for whom he would otherwise be entitled to act,

- (ii) in every such case the person interested may appear by a next friend, or, in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof,
- (iii) the provisions of Chapter XXXI of the Code of Civil Procedure* shall *mutatis mutandis* apply in the case of persons interested appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act and
- (iv) no person "entitled to act" shall be competent to receive the compensation money payable to the person for whom he is entitled to act unless he would have been competent to alienate the land and receive and give a good discharge for the purchase money on a voluntary sale

PART II

ACQUISITION

Preliminary Investigation Provincial

†4 (1) Whenever it appears to the Local Government that land in any locality is *needed* or is likely to be needed for any public purpose, a notification to that effect shall be published in the official Gazette and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality

Publication of preliminary notification and powers of officers there upon

(2) Thereupon it shall be lawful for any officer, either generally or specially authorized by such Government in this behalf and for his servants and workmen —

to enter upon and survey and take levels of any land in such locality

to dig or bore into the sub soil

to do all other acts necessary to ascertain whether the land is adapted for such purpose

to set out the boundaries of the land proposed to be taken and the intended line of work (if any) proposed to be made thereon

to mark such levels boundaries and line by placing marks and cutting trenches and

where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked to cut down and clear away any part of any standing crop, fence or jungle

* See now Act V of 1909

† As to amendments with which this section should be read when land is required for the purposes of a Company see s 32 (c) *infra*

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a Company, as the case may be, and, after making such declaration, the ~~Local Government~~ ^{Local Government} may acquire the land in manner hereinafter appearing

7. Whenever any land shall have been so declared to be needed for a public purpose or for a Company, the Local Government, or some officer authorized by the ~~Local Government~~ ^{Local Government} in this behalf, shall direct the Collector to take order for the acquisition of the land

After declaration Collector to take order for acquisition

8. The Collector shall thereupon cause the land (unless it has been already marked out under section (4)) to be marked out. He shall also cause it to be measured, and (if no plan has been made thereof) a plan to be made of the same

Land to be marked out, measured and planned.

9. (1) The Collector shall then cause public notice to be given at convenient places on or near the land to be taken stating that the Government intends to take possession of the land, and that claims to compensation for all interests in such land may be made to him

Notice to persons interested

(2) Such notice shall state the particulars of the land so needed, and shall require all persons interested in the land to appear personally or by agent before the Collector at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests and their objections (if any) to the measurements made under section 8. The Collector may in any case require such statement to be made in writing and signed by the party or his agent

(3) The Collector shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein or to be entitled to act for persons so interested, as reside or have agents authorized to receive service on their behalf within the revenue district in which the land is situate

(4) In case any person so interested resides elsewhere, and has no such agent, the notice shall be sent to him by post in a letter addressed to him at his last known residence, address or place of business and registered under Part III of the Indian Post Office Act, 1866 *

10 (1) The Collector may also require any such person to make or deliver to him at a time and place mentioned (such time not being earlier than fifteen days after the date of requisition), a statement containing, so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co proprietor, sub-proprietor, mortgagee, tenant

Power to require and enforce the making of statements as to names and interests.

* See now the Indian Post Office Act 1898 (VI of 1898)

or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for three years next preceding the date of the statement

(2) Every person required to make or deliver a statement under this section or section 9 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code

Enquiry into Measurements, Value and Claims, and Award by the Collector

Enquiry and
award by
Collector

11. (1) On the days so fixed, or any other day to which the enquiry has been adjourned, the Collector shall proceed to enquire into the objections (if any) which any person interested has stated pursuant to a notice given under section 9 to the measurements made under section 8, and into the value of the land at the date of the publication of the notification under section 4, sub-section (1), and into the respective interests of the persons claiming the compensation and shall make an award under his hand of—

- (i) the true area of the land,
- (ii) the compensation which in his opinion should be allowed for the land, and
- (iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom or of whose claims, he has information, whether or not they have respectively appeared before him

Award of
Collector
when to be
final

12. (1) Such award shall be filed in the Collector's office and shall except as hereinafter provided, be final and conclusive evidence, as between the Collector and the persons interested whether they have respectively appeared before the Collector or not of the true area and value of the land, and the apportionment of the compensation among the persons interested

(2) The Collector shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made

Adjournment
of enquiry

13. The Collector may, for any cause he thinks fit, from time to time adjourn the enquiry to a day to be fixed by him

Power to
summon
and enforce
attendance of
witnesses and
production of
documents

14. For the purpose of enquiries under this Act the Collector shall have power to summon and enforce the attendance of witnesses including the parties interested or any of them, and to compel the production of documents by the same means, and (as far as may be) in the same manner, as is provided in the case of a Civil Court under the Code of Civil Procedure *

Matters to
be considered
and neglected

15. In determining the amount of compensation, the Collector shall be guided by the provisions contained in sections 23 and 24

XIV

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB

CORRECTION SLIP NO 111, DATED LAHORE THE 13TH OCTOBER
1938*The Punjab Land Administration Acts, volume I.**The Land Acquisition Act, I of 1894.**Sections 16 and 17, page 11.*

In correction slip no 26, dated the 4th September, 1937, insert the following in the margin :—

* The Government of India (Adaptation of Indian Laws) Order, 1937

the purpose of making thereon a river side or ghāt station, or of providing convenient connection with or access to any such station, the Collector may, immediately after the publication of the notice mentioned in sub section (1) and with the previous sanction of the ~~Local~~ ^{Provincial} Government, enter upon and take possession of such land which shall thereupon vest absolutely in the Government free from all encumbrances

Provided that the Collector shall not take possession of any building or part of a building under this sub section without giving to the occupier thereof at least forty eight hours' notice of his intention so to do or such longer notice as may be reasonably sufficient to enable such occupier to remove his moveable property from such building without unnecessary inconvenience

(3) In every case under either of the preceding sub sections the Collector shall at the time of taking possession offer to the persons interested compensation for the standing crops and trees (if any) on such land and for any other damage sustained by them caused by such sudden dispossession and not excepted in section 24 and in case such offer is not accepted the value of such crops and trees and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions here in contained

11 of (4) In the case of any land to which in the opinion of the ~~Local~~ ^{Provincial} Government the provisions of sub section (1) or sub section (2) are applicable the ~~Local~~ ^{Provincial} Government may direct that the provisions of section 5-4 shall not apply and if it does so direct a declaration may be made under section 6 in respect of the land at any time after the publication of the notification under section 4 sub-section (1)

PART III

REFERENCE TO COURT AND PROCEDURE THEREON

18. (1) Any person interested who has not accepted the award ^{Reference to} may by written application to the Collector, require that the ^{Court} matter be referred by the Collector for the determination of the

Court whether his objection be to the measurement of the land, the amount of compensation, the persons to whom it is payable, or the apportionment of the compensation, among the persons interested

(2) The application shall state the grounds on which objection to the award is taken

Provided that every such application shall be made,—

- (a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award
- (b) in other cases, within six weeks of the receipt of the notice from the Collector under section 12, sub section (2), or within six months from the date of the Collector's award whichever period shall first expire

Collector's
statement
to the Court

19 (1) In making the reference, the Collector shall state, for the information of the Court, in writing under his hand,—

- (a) the situation and extent of the land, with particulars of any trees, buildings or standing crops thereon,
- (b) the names of the persons whom he has reason to think interested in such land,
- (c) the amount awarded for damages and paid or tendered under sections 5 and 17 or either of them, and the amount of compensation awarded under section 11, and
- (d) if the objection be to the amount of compensation, the grounds on which the amount of compensation was determined

(2) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by, the parties interested respectively

Service of
notice.

20 The Court shall thereupon cause a notice specifying the day on which the Court will proceed to determine the objection, and directing their appearance before the Court on that day, to be served on the following persons namely —

- (a) the applicant,
- (b) all persons interested in the objection except such (if any) of them as have consented without protest to receive payment of the compensation awarded, and
- (c) if the objection is in regard to the area of the land or to the amount of the compensation, the Collector

Restriction
on scope of
proceedings

21. The scope of the inquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected by the objection

22. Every such proceeding shall take place in open Court, and all persons entitled to practise in any Civil Court in the province shall be entitled to appear, plead and act (as the case may be) in such proceeding

Proceedings to be in open Court

23. (1) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration—

Matters to be considered in determining compensation.

first, the market-value of the land at the date of the publication of the notification under section 4, subsection (1),

secondly, the damage sustained by the person interested, by reason of the taking of any standing crops or trees which may be on the land at the time of the Collector's taking possession thereof,

thirdly, the damage (if any) sustained by the person interested at the time of the Collector's taking possession of the land, by reason of severing such land from his other land,

fourthly, the damage (if any) sustained by the person interested at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, moveable or immoveable, in any other manner, or his earnings,

fifthly, if, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business the reasonable expenses (if any) incidental to such change, and

sixthly the damage (if any) *bonâ fide* resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 and the time of the Collector's taking possession of the land

(2) In addition to the market value of the land as above provided, the Court shall in every case award a sum of fifteen per centum on such market value in consideration of the compulsory nature of the acquisition

24. But the Court shall not take into consideration—

first, the degree of urgency which has led to the acquisition,

Matters to be neglected in determining compensation.

secondly, any disinclination of the person interested to part with the land acquired

thirdly, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit,

fourthly, any damage which is likely to be caused to the land acquired, after the date of the publication of the declaration under section 6, by or in consequence of the use to which it will be put,

fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired,

sixthly, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put, or,

seventhly, any outlay or improvements on, or disposal of, the land acquired, commenced, made or effected without the sanction of the Collector after the date of the publication of the notification under section 4, sub-section (1)

Rule as to
amount of
compensa-
tion.

25. (1) When the applicant has made a claim to compensation, pursuant to any notice given under section 9, the amount awarded to him by the Court shall not exceed the amount so claimed or be less than the amount awarded by the Collector under section 11

(2) When the applicant has refused to make such claim or has omitted without sufficient reason (to be allowed by the Judge) to make such claim the amount awarded by the Court shall in no case exceed the amount awarded by the Collector

(3) When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the Court shall not be less than and may exceed the amount awarded by the Collector

Form of
awards

26. (1) Every award under this Part shall be in writing signed by the Judge, and shall specify the amount awarded under clause first of sub section (1) of section 23, and also the amounts (if any) respectively awarded under each of the other clauses of the same sub section together with the grounds of awarding each of the said amounts

(2) Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment within the meaning of section 2 clause (2), and section 2 clause (9), respectively of the Code of Civil Procedure 1909

Costs

27. (1) Every such award shall also state the amount of costs incurred in the proceedings under this Part, and by what persons and in what proportions they are to be paid

(2) When the award of the Collector is not upheld, the costs shall ordinarily be paid by the Collector unless the Court shall be of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Collector that some deduction from his costs should be made or that he should pay a part of the Collector's costs

28. If the sum which, in the opinion of the Court, the Collector ought to have awarded as compensation is in excess of the sum which the Collector did award as compensation, the award of the Court may direct that the Collector shall pay interest on such excess at the rate of six per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court; Collector may be directed to pay interest on excess compensation

PART IV

APPORTIONMENT OF COMPENSATION

29. Where there are several persons interested, if such persons agree in the apportionment of the compensation the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment; Particulars of apportionment to be specified

30. When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court; Dispute as to apportionment

PART V

PAYMENT

31. (1) On making an award under section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next sub section; Payment of compensation or deposit of same in Court

(2) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount

Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18

Provided also that nothing herein contained shall affect the liability of any person who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto

(3) Notwithstanding anything in this section the Collector may with the sanction of the ~~Local~~ Government instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either

the land in respect whereof such money shall have been deposited or as near thereto as may be

34. When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon at the rate of six per centum per annum from the time of so taking possession until it shall have been so paid or deposited

Payment of
Interest

PART VI

TEMPORARY OCCUPATION OF LAND

35. (1) Subject to the provisions of Part VII of this Act whenever it appears to the Local Government that the temporary occupation and use of any waste or arable land are needed for any public purpose, or for a Company, the Local Government may direct the Collector to procure the occupation and use of the same for such term as it shall think fit, not exceeding three years from the commencement of such occupation

Temporary
occupation of
waste or
arable land.
Procedure
when differ-
ence as to
compensation
exists

(2) The Collector shall thereupon give notice in writing to the persons interested in such land for the purpose for which the same is needed, and shall, for the occupation and use thereof for such term as aforesaid, and for the materials (if any) to be taken therefrom pay to them such compensation, either in a gross sum of money, or by monthly or other periodical payments, as shall be agreed upon in writing between him and such persons respectively

(3) In case the Collector and the persons interested differ as to the sufficiency of the compensation or apportionment thereof, the Collector shall refer such difference to the decision of the Court

36 (1) On payment of such compensation, or on executing such agreement or on making a reference under section 35, the Collector may enter upon and take possession of the land, and use or permit the use thereof in accordance with the terms of the said notice

Power to
enter and
take posses-
sion, and
compensa-
tion on
restoration.

(2) On the expiration of the term, the Collector shall make or tender to the persons interested compensation for the damage (if any) done to the land and not provided for by the agreement, and shall restore the land to the persons interested therein

Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term, and if the persons interested shall so require the Local Government shall proceed under this Act to acquire the land as if it was needed permanently for a public purpose or for a Company

37. In case the Collector and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the Collector shall refer such difference to the decision of the Court

Difference as
to condition
of land.

PART VII

ACQUISITION OF LAND FOR COMPANIES

Company may be authorized to enter and survey

38. (1) The ~~Local~~ ^{Provincial} Government may authorize any officer of any Company desiring to acquire land for its purposes to exercise the powers conferred by section 4

(2) In every such case section 4 shall be construed as if for the words "for such purpose" the words "for the purposes of the Company" were substituted, and section 5 shall be construed as if after the words "the officer" the words "of the Company" were inserted

Industrial concern to be deemed Company for certain purposes

38-A. In industrial concern, ordinarily employing not less than one hundred workmen owned by an individual or by an association of individuals and not being a Company, desiring to acquire land for the erection of dwelling houses for workmen employed by the concern or for the provision of amenities directly connected therewith shall so far as concerns the acquisition of such land, be deemed to be a Company for the purposes of this part, and the references to Company in sections 5 A, 6, 7, 17 and 50 shall be interpreted as references also to such concern

Previous consent of Local Government and execution of agreement necessary

39. The provisions of sections 6 to 37 (both inclusive) shall not be put in force in order to acquire land for any Company, unless with the previous consent of the ~~Local~~ ^{Provincial} Government nor unless the Company shall have executed the agreement hereinafter mentioned

Previous enquiry

40. (1) Such consent shall not be given unless the ~~Local~~ ^{Provincial} Government be satisfied *either on the report of the Collector under section 5 A, sub section (2), or by an enquiry held as hereinafter provided,—*

(a) that the purpose of the acquisition is to obtain land for the erection of dwelling houses for workmen employed by the Company or for the provision of amenities directly connected therewith or

(b) that such acquisition is needed for the ~~consideration~~ ^{construction} of some work, and that such work is likely to prove useful to the public

(2) Such enquiry shall be held by such officer and at such time and place as the ~~Local~~ ^{Provincial} Government shall appoint

(3) Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible in the same manner as is provided by the Code of Civil Procedure† in the case of a Civil Court

* The term "work" shall be deemed to include electrical energy supplied or to be supplied by means of the work to be constructed—*vid* section 57 (1) of the Indian Electricity Act 1910 (IX of 1910)

† See now Act V of 1908

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.

CORRECTION SLIP NO. 145, DATED LAHORE, THE 13TH OCTOBER
1938,

The Punjab Land Administration Acts, volume I.

The Land Acquisition Act, I of 1894.

Section 41, page 19.

In correction slip no. 27, dated the 4th September, 1937, insert the following in the margin :—

"The Government of India (Adaptation of Indian Laws) Order, 1937"

266 FO—3,500—19 10-38—GPP Lahore.

~~Company~~

... payment, of the land to the

FINANCIAL COMMISSIONERS' OFFICE PUNJAB.

CORRECTION SLIP NO. 146, DATED LAHORE, THE 13TH OCTOBER,
1938.

The Punjab Land Administration Acts, volume I.

The Land Acquisition Act, I of 1894.

Section 42, page 19.

In correction slip no. 28, dated the 4th September, 1937, insert the following in the margin :—

"The Government of India (Adaptation of Indian Laws) Order, 1937"

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.

CORRECTION SLIP NO. 147, DATED LAHORE, THE 13TH OCTOBER,
1938.

The Punjab Land Administration Acts, volume I.

Section 43, page 19.

In correction slip no. 29, dated the 4th September, 1937, insert the following in the margin :—

"The Government of India (Adaptation

of Laws) Order, 1937"

PART VIII

MISCELLANEOUS

Service of
notices

45. (1) Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section 4, by the officer therein mentioned and, in the case of any other notice, by or by order of the Collector or the Judge

(2) Whenever it may be practicable, the service of the notice shall be made on the person therein named

(3) When such person cannot be found, the service may be made on any adult male member of his family residing with him, and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Collector or in the court house, and also in some conspicuous part of the land to be acquired

Provided that, if the Collector or Judge shall so direct, a notice may be sent by post, in a letter addressed to the person named therein at his last known residence, address or place of business and registered under Part III of the Indian Post Office Act, 1866¹ and service of it may be proved by the production of the addressee's receipt

Penalty for
obstructing
acquisition
of land

46. Whoever wilfully obstructs any person in doing any of the acts authorized by section 4 or section 8, or wilfully fills up or destroys damages or displaces any trench or mark made under section 4 shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding one month or to fine not exceeding fifty rupees, or to both

Magistrate
to enforce
surrender

47. If the Collector is opposed or impeded in taking possession under this Act of any land he shall, if a Magistrate, enforce the surrender of the land to himself, and if not a Magistrate he shall apply to a Magistrate or (within the towns of Calcutta, Madras and Bombay) to the Commissioner of Police and such Magistrate or Commissioner (as the case may be) shall enforce the surrender of the land to the Collector—

Completion
of acquisition
not compulsory
but compensation
to be awarded
when not
completed

48. (1) Except in the case provided for in section 36 the Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken

(2) Whenever the Government withdraws from any such acquisition the Collector shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such

¹ See now the Indian Post Office Act 1898 (VI of 1898)

amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land

(3) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section

49. (1) The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory or other building, if the owner desire that the whole of such house, manufactory or building shall be so acquired Acquisition of part of house or building

Provided that the owner may, at any time before the Collector has made his award under section 11, by notice in writing, with draw or modify his expressed desire that the whole of such house, manufactory or building shall be so acquired

Provided also that, if any question shall arise as to whether any land proposed to be taken under this Act does or does not form part of a house manufactory or building within the meaning of this section, the Collector shall refer the determination of such question to the Court and shall not take possession of such land until after the question has been determined

In deciding on such a reference the Court shall have regard to the question whether the land proposed to be taken is reasonably required for the full and unimpaired use of the house manufactory or building

(2) If in the case of any claim under section 23 subsection (1) *thirdly*, by a person interested, on account of the severing of the land to be acquired from his other land, the ~~Local~~ ^{Provincial} Government is of opinion that the claim is unreasonable or excessive, it may, at any time before the Collector has made his award order the acquisition of the whole of the land of which the land first sought to be acquired forms a part

(3) In the case last hereinbefore provided for no fresh declaration or other proceedings under sections 6 to 10 both inclusive shall be necessary but the Collector shall without delay furnish a copy of the order of the ~~Local~~ ^{Provincial} Government to the person interested and shall thereafter proceed to make his award under section 11

50 (1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any Company, the charges of and incidental to such acquisition shall be defrayed from or by such fund or Company Acquisition of land at cost of a local authority or Company

(2) In any proceeding held before a Collector or Court in such cases the local authority or Company concerned may appear and adduce evidence for the purpose of determining the amount of compensation

Provided that no such local authority or Company shall be entitled to demand a reference under section 18

Exempt on
from stamp
duty and
fees

51. No award or agreement made under this Act shall be chargeable with stamp-duty, and no person claiming under an such award or agreement shall be liable to pay any fee for a copy of the same

Notice in
case of suits
or anything
done in pur-
suance of
Act

52. No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, not after tender of sufficient amends

Code of Civil
Procedure to
apply to
proceedings
before Court

53. Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the Code* of Civil Procedure shall apply to all proceedings before the Court under this Act

Appears in
proceedings
before Court

54. Subject to the provisions of the Code of Civil Procedure, 1908, applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment in force at the time being in force, an appeal shall only lie in any proceedings under this Act to the High Court from the award, or from any part of the award, or of the Court and from any decree of the High Court passed on such appeal as aforesaid an appeal shall lie to His Majesty in Council, subject to the provisions contained in section 110 of the Code of Civil Procedure 1908 and in Order XLV thereof."

Power to
make rule

55. (1) The ^{Provincial} Local Government shall have power to make rules consistent with this Act for the guidance of the officers in all matters connected with its enforcement, and may from time to time alter and add to the rules so made

"Provided that where the provisions of this Act are put in force for the acquisition of land—

(a) for the purpose of any railway, or

(b) for such other purposes, connected with the administration of a central subject as defined in section 45 of the Government of India Act, as the Governor General in Council may, by notification in the Gazette of India declare in this behalf,

the power to make, alter and add to rules conferred on the Local Government by this subsection shall be exercised subject to the control of the Governor General in Council"

(2) The power to make, alter and add to rules under subsection (1) shall be subject to the condition of the rules being made, altered or added to after previous publication

(3) All such rules, alterations and additions shall be published in the official Gazette, and shall thereupon have the force of law

THE LAND IMPROVEMENT LOANS ACT, 1883.

CONTENTS.

SECTION.

- 1 Short title, local extent and commencement
- 2 Acts XXVI of 1871 and Act XXI of 1876 repealed
- 3 "Collector" defined
- 4 Purposes for which loans may be granted under this Act
- 5 Mode of dealing with applications for loans
- 6 Period for repayment of loans
- 7 Recovery of loans
- 8 Order granting loan conclusive on certain points
- 9 Liability of joint borrowers as among themselves.
- 10 Power to make rules.
- 11 ~~Remission of improvements from assessment to land-~~

Provided that no such local authority or Company shall be entitled to demand a reference under section 18

Exempt on
from stamp
duty and
fees

51. No award or agreement made under this Act shall be chargeable with stamp duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same

Notice in
case of suits
or anything
done in pur-
suance of
Act

52. No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor at or tender of sufficient amends

Code of Civil
Procedure to
apply to
proceedings
before Court

53. Save in so far as they may be inconsistent with anything contained in this Act the provisions of the Code* of Civil Procedure shall apply to all proceedings before the Court under this Act

Appeals in
proceedings
before Court.

54. Subject to the provisions of the Code of Civil Procedure, 1908, applicable to appeals from original decrees, and notwithstanding anything to the contrary in any enactment for the time being in force, an appeal shall only lie in any proceedings under this Act to the High Court from the award, or from any part of the award, or of the Court and from any decree of the High Court passed on such appeal as aforesaid an appeal shall lie to His Majesty's Court of Appeal in England

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB

CORRECTION SLIP NO 148, DATED LAHORE, THE 13TH OCTOBER,
1938

The Punjab Land Administration Acts, volume I

The Land Acquisition Act, I of 1894

Section 55, page 22

In correction slip no 80, dated the 4th September, 1937, insert the following in the margin :—

* The Government of India (Adaptation of Indian Laws) Order, 1937 "

366 FC—3,500—2—19 10 38 SG 11 Lahore.

THE LAND IMPROVEMENT LOANS ACT, 1883.

CONTENTS

Section

- 1 Short title, local extent and commencement
- 2 Acts XXVI of 1871 and Act XXI of 1876 repealed
- 3 "Collector" defined
- 4 Purposes for which loans may be granted under this Act
- 5 Mode of dealing with applications for loans
- 6 Period for repayment of loans
- 7 Recovery of loans
- 8 Order granting loan conclusive on certain points
- 9 Liability of joint borrowers as among themselves
- 10 Power to make rules
- 11 Exemption of improvements from assessment to land-revenue
- 12 Certain powers of ~~Local~~ ^{Provincial} Government to be exercisable by Board of Revenue or Financial Commissioner.



ACT No. XIX OF 1883.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL
*(Received the assent of the Governor-General on the
 12th October 1883)*

As amended by—

ACT XII OF 1891, ACT LVIII OF 1899, ACT VIII OF 1906,
 ACT XVI OF 1908, ACT IV OF 1914, AND ACT X OF 1914

AN ACT TO CONSOLIDATE AND AMEND THE LAW
 RELATING TO LOANS OF MONEY BY THE
 GOVERNMENT FOR AGRICULTURAL

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.

CORRECTION SLIP No 170 P. L. A., DATED LAHORE, THE 26TH
 NOVEMBER, 1938

Punjab Land Administration Acts, Volume I.

The Land Improvement Loans Act, XIX of 1883

Page 3.

On the margin of correction slip no 66 P. L. A., dated the
 18th September, 1937, insert the following authority —

The Government of India (Adaptation of Indian Laws) Order 1937

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB

CORRECTION SLIP No 171-P. L. A., DATED LAHORE, THE 26TH
 NOVEMBER, 1938

Punjab Land Administration Acts, Volume I.

The Land Improvement Loans Act, XIX of 1883

Page 3

On the margin of correction slip no. 67-P. L. A., dated the
 18th September, 1937, insert the following authority :—

The Government of India (Adaptation of Indian Laws) Order, 1937.

purposes of agriculture, or for the use of men and cattle employed in agriculture,

(b) the preparation of land for irrigation,

(c) the drainage reclamation from rivers or other waters or protection from floods or from erosion or other damage by water, of land used for agricultural purposes or waste land which is culturable,

(d) the reclamation, clearance enclosure or permanent improvement of land for agricultural purposes,

(e) the renewal or reconstruction of any of the foregoing works or alteration therein or additions thereto, and

(f) such other works as the ^{Provincial} Local Government may, from time to time by notification in the ^(VII of 1906) Local official Gazette declare to be improvements for the purposes of this Act

Mode of dealing with applications for loans.

5. (1) When an application for a loan is made under this Act the officer to whom the application is made may, if it is in his opinion expedient that public notice be given of the application publish a notice in such manner as the ^{Provincial} Local Government may from time to time direct calling upon all persons objecting to the loan to appear before him at a time and place fixed therein and submit their objections

(2) The officer shall consider every objection submitted under sub-section (1) and make an order in writing either admitting or overruling it

Provided that when the question raised by an objection is in the opinion of the officer one of such a nature that it cannot be satisfactorily decided except by a Civil Court he shall postpone his proceedings on the application until the question has been so decided

Period for repayment of loans.

6. (1) Every loan granted under this Act shall be made repayable by instalments (in the form of an annuity or otherwise) within such period from the date of the actual advance of the loan or when the loan is advanced in instalments (from the date of the advance of the last instalment actually paid)* as may from time to time be fixed by the rules made under this Act ^(VII of 1906)

(2) The period fixed as aforesaid shall not ordinarily exceed thirty five years

* These words were substituted for the words 'from the date of the actual advance of the last instalment' by section 2 of the Land Improvement Loans (Amendment) Act 1909 (XXIII of 1909) and are by that enactment to be deemed to have been substituted with effect from the commencement of Act XIX of 1883

908. (3) The ^{Provincial} Local Government in making the rules fixing the period shall, in considering whether the period should extend to thirty-five years, or whether it should extend beyond thirty-five years, have regard to the durability of the work for the purpose of which the loan is granted, and to the expediency of the cost of the work being paid by the generation of persons who will immediately benefit by the work

7. (1) Subject to such rules as may be made under section 10, ^{Recovery} all loans granted under this Act, all interest (if any) chargeable ^{loans.} (thereon) and costs (if any) incurred in making the same, shall, when they become due, be recoverable by the Collector in all or any of the following modes, namely—

- (a) from the borrower—as if they were arrears of land-revenue due by him;
- (b) from his surety (if any)—as if they were arrears of land-revenue due by him;
- (c) out of the land for the benefit of which the loan has been granted—as if they were arrears of land revenue due in respect of that land,
- (d) out of the property comprised in the collateral security (if any)—according to the procedure for the realization of land-revenue by the sale of immoveable property other than the land on which that revenue is due

Provided that no proceeding in respect of any land under clause (c) shall affect any interest in that land which existed before the date of the order granting the loan, other than the interest of the borrower, and of mortgagees of, or persons, having charges on, that interest and, where the loan is granted under section 4 with the consent of another person, the interest of that person, and of mortgagees of, or persons having charges on, that interest

(2) When any sum due on account of any such loan, interest or costs is paid to the Collector by a surety or an owner of property compromised in any collateral security, or is recovered under subsection (1) by the Collector from a surety or out of any such property, the Collector shall, on the application of the surety or the owner of that property (as the case may be), recover that sum on his behalf from the borrower, or out of the land for the benefit of which the loan has been granted, in manner provided by subsection (1)

(3) It shall be in the discretion of a Collector acting under this section to determine the order in which he will resort to the various modes of recovery permitted by it

Order grant-
ing loan con-
clusive on
certain
points.

8. A written order under the hand of an officer empowered to make loans under this Act granting a loan to or with the consent of, a person mentioned therein, for the purpose of carrying out a work described therein for the benefit of land specified therein, shall for the purposes of this Act be conclusive evidence—

(a) that the work described is an improvement within the meaning of this Act

(b) that the person mentioned had at the date of the order a right to make such an improvement, and

(c) that the improvement is one benefiting the land specified

Liability of
joint borrowers
as among
themselves.

9. When a loan is made under this Act to the members of a village community or to any other persons on such terms that all of them are jointly and severally bound to the Government for the payment of the whole amount payable in respect thereof, and a statement showing the portion of that amount which is among themselves each is bound to contribute is entered upon the order granting the loan and is signed by each of them and by the officer making the order that statement shall be conclusive evidence of the portion of that amount which is among themselves each of them is bound to contribute

Power to
make rules.

10. The ^{Provincial} Government may, from time to time, by notification in the ~~local~~ official Gazette make rules consistent with this Act to provide for the following matters, namely:—

(a) the manner of making applications for loans;

(b) the officers by whom loans may be granted;

11. When land is improved with the aid of a loan granted under this Act the increase in value derived from the improvement shall not be taken into account in revising the assessment of land revenue on the land

Exemption of improvements from assessment to land revenue.

Provided as follows —

(1) where the improvement consists of the reclamation of waste-land or of the irrigation of land assessed at unirrigated rates the increase may be so taken into account after the expiration of such period as may be fixed by rules to be framed by the ~~Local~~ ^{Provincial} Government

(2) nothing in this section shall entitle any person to call in question any assessment of land revenue otherwise than as it might have been called in question if this Act had not been passed

12. The powers conferred on a ~~Local~~ ^{Provincial} Government by sections 4 (1) 5 (1) and 10 may in a province for which there is a Board of Revenue or a Financial Commissioner be exercised in the like manner and subject to the like conditions by such Board or Financial Commissioner as the case may be provided that rules made by a Board of Revenue or Financial Commissioner shall be subject to the control of the ~~Local~~ ^{Provincial} Government

Certain powers of ~~Local~~ ^{Provincial} Government to be exercised by Board of Revenue or Financial Commissioner

NOTES—1 Government of India Finance and Commerce Department notification No 4650 dated 10th September 1889 clause (12) remits the fees chargeable on applications for loans under the Land Improvement Loans Act XIX of 1883

2 By Article 57 of Schedule I to the Indian Stamp Act II of 1899 instruments executed by persons taking advances under the Land Improvement Loans Act 1883 or by their sureties as security for the repayment of such advances are exempted from stamp duty

3 Government of India Finance Department notification No 3616-Exc dated 16th July 1909 remits the stamp duty chargeable on an instrument executed for the purpose of securing the repayment of a loan made or to be made under the Land Improvement Loans Act 1883 (XIX of 1883) including an instrument whereby a landlord binds himself to consent to the transfer in the event of default in such repayment of any land or interest in land on the security of which any such loan is made to his tenant

THE AGRICULTURISTS' LOANS ACT, 1884.

CONTENTS.

SECTIONS.

1. Preamble, short title and commencement.
2. Local extent
3. Repeal of Act X of 1879, and sections 4 and 5 of Act XV,
of 1880
4. Power for *Provincial* ~~Local~~ Government to make rules
5. Recovery of loans
6. Liability of joint borrowers as among themselves

ACT No. XII OF 1884.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL

(Received the assent of the Governor-General on the

24th J. 1. 1884

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB

CORRECTION SLIP No 172 P L A., DATED LAHORE, THE 26TH
NOVEMBER, 1938

Punjab Land Administration Acts, Volume I

The Agriculturists Loans Act, XII of 1884

Page 3

On the margin of correction slip no 68 P L A., dated the
10th Sept 1937, insert the following authority —

FINANCIAL COMMISSIONERS OFFICE PUNJAB

CORRECTION SLIP NO 173 P L A., DATED LAHORE, THE 26TH
NOVEMBER, 1938

Punjab Land Administration Acts, Volume I

The Agriculturists Loans Act XII of 1884

Page 3

On the margin of correction slip no 69 P L A., dated the 18th
September, 1937, insert the following authority —

The Government of India (Adaptation of Indian Laws) Order, 1937

FINANCIAL COMMISSIONERS OFFICE, PUNJAB

CORRECTION SLIP NO 174 P L A., DATED LAHORE, THE 26TH
NOVEMBER 1938

Punjab Land Administration Acts, Volume I.

The Agriculturists Loans Act, XII of 1884

Page 3

On the margin of correction slip no 70-P.L.A., dated the
September, 1937, insert the following authority —

The Government of (Adaptation of Indian Laws) Order, 1

ACT No. XII OF 1884.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor-General on the 18th September, 1937)

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.

CORRECTION SLIP No. 172-P. L. A., DATED LAHORE, THE 26TH
NOVEMBER, 1938.

Punjab Land Administration Acts, Volume I.

The Agriculturists Loans Act, XII of 1884.

Page 3.

On the margin of correction slip no. 68-P. L. A., dated the
18th September, 1937, insert the following authority:—

The Government of India (Adaptation of Indian Laws) Order, 1937.

(3) But any ^{Provincial} Local Government may, from time to time, notification in the official Gazette, extend the rest of this Act the whole or any part of the territories under its administration

3. (1) On and from the day on which this Act comes into force, the Northern India Takhar Act, 1879, and sections 4 and 5 of the Bombay Revenue Jurisdiction Act, 1880, shall, except as regards the recovery of advances made before this Act comes into force and of the interest thereon, be repealed ^{Repeal of Act X of 1879 and sections 4 and 5 of Act XV of 1880.}

(2) All rules made under those Acts shall be deemed to be made under this Act

4. (1) The Local Government or, in a province for which there is a Board of Revenue or Financial Commissioner, such Board or Financial Commissioner, subject to the control of the ^{Power for Provincial Government to make rules.} Provincial Government, may, from time to time make rules as to loans to be made to farmers and occupiers of arable land for the relief of distress, the purchase of seed or cattle or any other purpose not specified in the and Improvement Loans Act, 1883, but connected with agricultural objects

(2) All such rules shall be published in the ~~the~~ official Gazette.

Recovery of
loans.

5. Every loan made in accordance with such rules, all interest (if any) chargeable thereon, and costs (if any) incurred in making or recovering the same, shall, when they become due, be recoverable from the person to whom the loan was made, or from any person who has become surety for the repayment thereof, as if they were arrears of land-revenue or costs incurred in recovering the same due by the person to whom the loan was made or by his surety

Liability of
joint borrow-
ers as among
themselves

6. When a loan is made under this Act to the members of a village community or to any other persons on such terms that all of them are jointly and severally bound to the Government for the payment of the whole amount payable in respect thereof, and a statement showing the portion of that amount which as among themselves each is bound to contribute is entered upon the order granting the loan and signed, marked, or sealed by each of them or his agent duly authorized in this behalf and by the officer making the order, that statement shall be conclusive evidence of the portion of that amount which as among themselves each of those persons is bound to contribute

NOTES —1 Government of India, Finance and Commerce Department, notification No 4650, dated 10th September 1889, clause (12), remits the fees chargeable on applications for loans under the Agriculturists' Loans Act (XII of 1884)

2 By Article 57 of Schedule I to the Indian Stamp Act, II of 1899, instruments executed by persons taking advances under the Agriculturists' Loans Act 1884 or by their sureties as security for the repayment of such advances, are exempted from stamp duty

3 Government of India Finance Department, notification No 3616-Exc, dated 16th July 1909, remits the stamp duty chargeable on—

(i) A—

as a condition to consent to the transfer, in the event of default in such repayment of any land, or interest in land on the security of which any such loan is made to his tenant,

(ii) A receipt given by a person for advances exceeding Rs 20 received by him from the Government under the Agriculturists' Loans Act 1884 (XII of 1884)

THE CO-OPERATIVE SOCIETIES ACT, 1912.

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ACT No. II OF 1912.

*(Received the assent of the Governor-General on the
1st March 1912)*

As amended by—

ACT XVII OF 1914, ACT XXXVIII OF 1920.

AN ACT TO AMEND THE LAW RELATING TO CO-OPERATIVE SOCIETIES.

WHEREAS it is expedient further to facilitate the formation of Co-operative Societies for the promotion of thrift and self-help among agriculturists, artisans and persons of limited means, and for that purpose to amend the law relating to Co-operative Societies; It is hereby enacted as follows:—

Preliminary.

1. (1) This Act may be called the Co-operative Societies Act, Short title
and extent.
1912, and

(2) It extends to the whole of British India

2. In this Act, unless there is anything repugnant in the Definitions.
subject or context,—

(a) “by-laws” means the registered by-laws for the time being in force, and includes a registered amendment of the by-laws

(b) “committee” means the governing body of a registered society to whom the management of its affairs is entrusted

(c) “member” includes a person joining in the application for the registration of a society and a person admitted to membership after registration in accordance with the by-laws and any rules

(d) “officer” includes a chairman, secretary, treasurer, member of committee or other person empowered under the rules or the by-laws to give directions in regard to the business of the society

(e) “registered society” means a society registered or deemed to be registered under this Act

(f) “Registrar” means a person appointed to perform the duties of a Registrar of Co-operative Societies under this Act and

(g) “rules” means rules made under this Act

Registrar

3. The Local Government may appoint a person to be Registrar of Co-operative Societies for the Province or any portion of The Registrar.
it and may appoint persons to assist such Registrar and may, by general or special order, confer on any such persons all or any of the powers of a Registrar under this Act

(Registration)

Societies
which may
be registered.

4. Subject to the provisions hereinafter contained, a society which has as its object the promotion of the economic interests of its members in accordance with co-operative principles, or a society established with the object of facilitating the operations of such a society, may be registered under this Act with or without limited liability

Provided that unless the Local Government by general or special order otherwise directs—

- (1) the liability of a society of which a member is a registered society shall be limited
- (2) the liability of a society of which the object is the creation of funds to be lent to its members, and of which the majority of the members are agriculturists, and of which no member is a registered society, shall be unlimited

Restrictions
on interest
of member
of society
with limited
liability and
a share
capital

5 Where the liability of the members of a society is limited by shares no member other than a registered society shall—

- (a) hold more than such portion of the share capital of the society, subject to a maximum of one fifth, as may be prescribed by the rules or
- (b) have or claim any interest in the shares of the society exceeding one thousand rupees

Conditions
of registra-
tion.

6. (1) No society, other than a society of which a member is a registered society, shall be registered under this Act which does not consist of at least ten persons above the age of eighteen years and, where the object of the society is the creation of funds to be lent to its members unless such persons—

- (a) reside in the same town or village or in the same group of villages, or,
- (b) save where the Registrar otherwise directs, are members of the same tribe, class, caste or occupation

(2) The word "limited" shall be the last word in the name of every society with limited liability registered under this Act

Power of
Registrar to
decide
certain
questions

7. When any question arises whether for the purposes of this Act a person is an agriculturist or a non agriculturist, or whether any person is a resident in a town or village or group of villages, or whether two or more villages shall be considered to form a group or whether any person belongs to any particular tribe, class, caste or occupation the question shall be decided by the Registrar, whose decision shall be final

Applica-
tion for registra-
tion.

8. (1) For purposes of registration an application to register shall be made to the Registrar

(2) The application shall be signed—

- (a) in the case of a society of which no member is a registered society, by at least ten persons qualified in

(Registration Rights and liabilities of members)

accordance with the requirements of section 6, sub-section (1), and

- (b) in the case of a society of which a member is a registered society, by a duly authorised person on behalf of every such registered society, and where all the members of the society are not registered societies, by ten other members or when there are less than ten, other members by all of them

(3) The application shall be accompanied by a copy of the proposed by-laws of the society, and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Registrar may require

9. If the Registrar is satisfied that a society has complied with the provisions of this Act and the rules and that its proposed by-laws are not contrary to the Act or to the rules he may if he thinks fit register the society and its by-laws Registration

10. A certificate of registration signed by the Registrar shall be conclusive evidence that the society therein mentioned is duly registered unless it is proved that the registration of the society has been cancelled Evidence of registration

11. (1) No amendment of the by-laws of a registered society shall be valid until the same has been registered under this Act, for which purpose a copy of the amendment shall be forwarded to the Registrar Amendment of the by-laws of a registered society

(2) If the Registrar is satisfied that any amendment of the by-laws is not contrary to this Act or to the rules he may, if he thinks fit, register the amendment

(3) When the Registrar registers an amendment of the by-laws of a registered society he shall issue to the society a copy of the amendment certified by him, which shall be conclusive evidence that the same is duly registered

Rights and liabilities of members

12. No member of a registered society shall exercise the rights of a member unless or until he has made such payment to the society in respect of membership or acquired such interest in the society as may be prescribed by the rules or by-laws Member not to exercise rights till due payment made

13. (1) Where the liability of the members of a registered society is not limited by shares each member shall notwithstanding the amount of his interest in the capital have one vote only as a member in the affairs of the society Votes of members

(2) Where the liability of the members of a registered society is limited by shares each member shall have as many votes as may be prescribed by the by-laws

(3) A registered society which has invested any part of its funds in the shares of any other registered society may apply at any

*(Rights and liabilities of members Duties of registered societies
Privileges of registered societies)*

its proxy, for the purpose of voting in the affairs of such other registered society any one of its members

Restrictions
on transfer
of share or
interest.

14. (1) The transfer or charge of the share or interest of a member in the capital of a registered society shall be subject to such conditions as to maximum holding as may be prescribed by this Act or by the rules

(2) In case of a society registered with unlimited liability a member shall not transfer any share held by him or his interest in the capital of the society or any part thereof unless—

(a) he has held such share or interest for not less than one year and

(b) the transfer or charge is made to the society or to a member of the society

Duties of registered societies

Address of
societies

15 Every registered society shall have an address registered in accordance with the rules to which all notices and communications may be sent and shall send to the Registrar notice of every change thereof

Copy of Act,
rules and
by laws to
be open to
inspection

16 Every registered society shall keep a copy of this Act and of the rules governing such society and of its by-laws, open to inspection free of charge at all reasonable times at the registered address of the society

Audit.

17. (1) The Registrar shall audit or cause to be audited by some person authorised by him by general or special order in writing in this behalf the accounts of every registered society once at least in every year

(2) The audit under subsection (1) shall include an examination of overplus debts if any, and a valuation of the assets and liabilities of the society

(3) The Registrar the Collector or any person authorised by general or special order in writing in this behalf by the Registrar shall at all times have access to all the books accounts, papers and writings of a society, and every officer of the society shall furnish such information in regard to the transactions and working of the society as the person making such inspection may require

Privileges of registered societies

Societies to
be bodies
corporate

18. The registration of a society shall render it a body corporate in the name under which it is registered, with perpetual succession and a common seal, and with power to hold property, to enter into contracts to institute and defend suits and other legal proceedings and to do all things necessary for the purposes of its constitution

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB

CORRECTION SLIP NO 100, DATED LAHORE, THE 18TH SEPTEMBER, 1938

The Punjab Land Administration Acts, Volume I.

The Co-operative Societies Act, II of 1912.

Section 19

For the word "Government" substitute the word "Crown"

The Govern-
ment of
India (Adap-
tation of
Indian Laws)
Order, 1937

278FC-3 500-19 9 38-SCPP Lahore.

purchased

20. A registered society shall have a charge upon the share or interest in the capital and on the deposits of a member or past member and upon any dividend bonus or profits payable to a member or past member in respect of any debt due from such member or past member to the society and may set off any sum credited or payable to a member or past member in or towards payment of any such debt

Charge and set off in respect of shares or interest of member

21. Subject to the provisions of section 20, the share or interest of a member in the capital of a registered society shall not be liable to attachment or sale under any decree or order of a Court of Justice in respect of any debt or liability incurred by such member and neither the Official Assignee under the Presidency towns Insolvency Act 1909 nor a Receiver under the Provincial Insolvency Act 1907 shall be entitled to or have any claim on such share or interest

Share or interest not liable to attachment.

22. (1) On the death of a member of a registered society may transfer the share or interest of the deceased member to the person nominated in accordance with the rules made in this behalf, or, if there is no person so nominated to such person as may appear to the committee to be the heir or legal representative of the deceased member or pay to such nominee heir or legal representative as the case may be a sum representing the value of such member's share or interest as ascertained in accordance with the rules or by-laws

Transfer of interest on death of member

Provided that—

(i) in the case of a society with unlimited liability such nominee heir or legal representative as the case may

* See now the Provincial Insolvency Act 1909 (5 of 1909)

(Privileges of registered societies)

be, may require payment by the society of the value of the share or interest of the deceased member ascertained as aforesaid,

- (2) in the case of a society with limited liability, the society shall transfer the share or interest of the deceased member to such nominee, heir or legal representative, as the case may be, being qualified in accordance with the rules and by laws for membership of the society, or on his application within one month of the death of the deceased member to any person specified in the application who is so qualified

(2) A registered society may pay all other moneys due to the deceased member from the society to such nominee, heir or legal representative as the case may be

(3) All transfers and payments made by a registered society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person

Liability of
part
member

23. The liability of a past member for the debts of a registered society as they existed at the time when he ceased to be a member shall continue for a period of two years from the date of his ceasing to be a member

Liability of
the estates
of deceased
members

24. The estate of a deceased member shall be liable for a period of one year from the time of his decease for the debts of a registered society as they existed at the time of his decease

Register of
members

25. Any register or list of members or shares kept by any registered society shall be *prima facie* evidence of any of the following particulars entered therein —

- (a) the date at which the name of any person was entered in such register or list as a member,
(b) the date at which any such person ceased to be a member

Proof of
entries in
society's
books

26. A copy of any entry in a book of a registered society regularly kept in the course of business, shall, if certified in such manner as may be prescribed by the rules, be received, in any suit or legal proceeding, as *prima facie* evidence of the existence of such entry, and shall be admitted as evidence of the matters transactions and accounts therein recorded in every case where, and to the same extent as the original entry itself is admissible

Exemption
from com-
pulsory
registration
of instru-
ments
relating to
shares and
debentures
of registered
society

27. Nothing in section 17 sub-section (1), clauses (b) and (c) of the Indian Registration Act 1908 shall apply to—

- (1) any instrument relating to shares in a registered society notwithstanding that the assets of such society consist in whole or part of immovable property, or
(2) any debenture issued by any such society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable

(Privileges of registered societies. Property and funds of registered societies.)

property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its unmovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures; or

(3) any endorsement upon or transfer of any debenture issued by any such society.

XXVIII of 20. (1) The Governor-General in Council, by notification in the Gazette of India, may, in the case of any registered society or class of registered society, remit the income-tax payable in respect of the profits of the society, or of the dividends or other payments received by the members of the society on account of profits; Power to exempt from income tax stamp-duty and registration fees.

XXVIII of 20. (2) The Local Government, by notification in the local official Gazette, may, in the case of any registered society or class of regis-

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.

CORRECTION SLIP NO. 99 DATED LAHORE, THE 18TH SEPTEMBER. 1938.

*The Punjab Land Administration Acts, Volume I.**The Co-operative Societies Act, II of 1912.**Section 28.*

The Govern-
ment of
India (Adap-
tation of
Indian Laws)
order, 1937

In sub-section (2) for the words "Local Government" substitute the word "Government" and at the end add the following paragraph:—

"In this sub-section "Government" in relation to stamp duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, proxies and receipts, and in relation to any stamp duty falling within item 59 in List I in the Seventh Schedule to the Government of India Act, 1935, means the Central Government, and save as aforesaid means the Provincial Government."

(Property and funds of registered societies Inspection of affairs)

Restric-
tions on
other tran-
sactions
with non
members

Investment
of funds

31. Save as provided in sections 29 and 30, the transactions of a registered society with persons other than members shall be subject to such prohibitions and restrictions if any, as the Local Government may by rules prescribe

32. (1) A registered society may invest or deposit its funds—

(a) in the Government Savings Bank, or

(b) in any of the securities specified in section 20 of the Indian Trusts Act 1882, or

(c) in the shares or on the security of any other registered society, or

(d) with any bank or person carrying on the business of banking approved for this purpose by the Registrar, or

(e) in any other mode permitted by the rules

(2) Any investments or deposits made before the commencement of this Act which would have been valid if this Act had been in force are hereby ratified and confirmed

Funds not to
be divided
by way of
profit.

33. No part of the funds of a registered society shall be divided by way of bonus or dividend or otherwise among its members

Provided that after at least one fourth of the net profits in any year have been carried to a reserve fund payments from the remainder of such profits and from any profits of past years available for distribution may be made among the members to such extent and under such conditions as may be prescribed by the rules or by-laws

Provided also that in the case of a society with unlimited liability no distribution of profits shall be made without the general or special order of the Local Government in this behalf

Contribution
to charitable
purpose.

34. Any registered society may with the sanction of the Registrar after one fourth of the net profits in any year has been carried to a reserve fund contribute an amount not exceeding ten per cent of the remaining net profits to any charitable purpose as defined in section 2 of the Charitable Endowments Act 1890

Inspection of affairs

Inquiry by
Registrar

35. (1) The Registrar may of his own motion and shall on the request of the Collector or on the application of a majority of the committee or of not less than one third of the members hold an inquiry or direct some person authorized by him by order in writing in this behalf to hold an inquiry into the constitution working and financial condition of a registered society

(Inspection of affairs; Dissolution of society)

(2) All officers and members of the society shall furnish such information in regard to the affairs of the society as the Registrar or the person authorized by the Registrar may require.

36. (1) The Registrar shall, on the application of a creditor of a registered society, inspect or direct some person authorized by him by order in writing in this behalf to inspect the books of the society. Inspection
of books of
indebted
society

Provided that—

(a) the applicant satisfies the Registrar that the debt is a sum then due, and that he has demanded payment thereof and has not received satisfaction within a reasonable time, and

(b) the applicant deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require

(2) The Registrar shall communicate the results of any such inspection to the creditor

37. Where an inquiry is held under section 35, or an inspection is made under section 36 the Registrar may apportion the costs or such part of the costs as he may think right, between the society the members or creditor demanding an inquiry or inspection, and the officers or former officers of the society Costs of
inquiry

38. Any sum awarded by way of costs under section 37 may be recovered, on application to a Magistrate having jurisdiction in the place where the person from whom the money is claimable actually and voluntarily resides or carries on business, by the distress and sale of any movable property within the limits of the jurisdiction of such Magistrate belonging to such person Recovery of
costs

Dissolution of society

39. (1) If the Registrar after an inquiry has been held under section 35 or after an inspection has been made under section 36 or on receipt of an application made by three-fourths of the members of a registered society is of opinion that the society ought to be dissolved, he may cancel the registration of the society Dissolution.

(2) Any member of a society may, within two months from the date of an order made under subsection (1), appeal from such order

(3) Where no appeal is presented within two months from the making of an order cancelling the registration of a society, the order shall take effect on the expiry of that period

(4) Where an appeal is presented within two months, the order shall not take effect until it is confirmed by the appellate authority

(Dissolution of society)

(5) The authority to which appeals under this section shall lie shall be the Local Government

Provided that the Local Government may, by notification in the local official Gazette direct that appeals shall lie to such Revenue authority as may be specified in the notification

Cancellation
of registra-
tion of
soc ety

40. Where it is a condition of the registration of a society that it should consist of at least ten members, the Registrar may, by order in writing cancel the registration of the soc ety if at any time it is proved to his satisfaction that the number of the members has been reduced to less than ten

Effect of
cancellation
of registra-
tion.

41. Where the registration of a society is cancelled, the society shall cease to exist as a corporate body—

(a) in the case of cancellation in accordance with the provisions of section 39, from the date the order of cancellation takes effect,

(b) in the case of cancellation in accordance with the provisions of section 40 from the date of the order

Winding up

42. (1) Where the registration of a society is cancelled under section 39 or section 40, the Registrar may appoint a competent person to be liquidator of the society

(2) A liquidator appointed under sub section (1) shall have power—

(a) to institute and defend suits and other legal proceedings on behalf of the society by his name of office,

(b) to determine the contribution to be made by the members and past members of the society respectively to the assets of the society,

(c) to investigate all claims against the society and, subject to the provisions of this Act, to decide questions of priority arising between claimants,

(d) to determine by what persons and in what proportions the costs of the liquidation are to be borne, and

(e) to give such directions in regard to the collection and distribution of the assets of the society, as may appear to him to be necessary for winding up the affairs of the society

(3) Subject to any rules a liquidator appointed under this section shall in so far as such powers are necessary for carrying out the purposes of this section, have power to summon and enforce the attendance of witnesses and to compel the production of documents by the same means and (so far as may be) in the same manner as is provided in the case of a Civil Court under the Code of Civil Procedure 1908

(Dissolution of society. Rules.)

(4) Where an appeal from any order made by a liquidator under this section is provided for by the rules, it shall lie to the Court of the District Judge

(5) Orders made under this section shall, on application, be enforced as follows —

- (a) when made by a liquidator, by any Civil Court having local jurisdiction in the same manner as a decree of such Court,
- (b) when made by the Court of the District Judge on appeal, in the same manner as a decree of such Court made in any suit pending therein

(6) Save in so far as is hereinbefore expressly provided, no Civil Court shall have any jurisdiction in respect of any matter connected with the dissolution of a registered society under this Act

Rules

43. (1) The Local Government may, for the whole or any part of the Province and for any registered society or class of such societies make rules to carry out the purposes of this Act *Rules.*

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

- (a) subject to the provisions of section 5, prescribe the maximum number of shares or portion of the capital of a society which may be held by a member;
- (b) prescribe the forms to be used and the conditions to be complied with in the making of applications for the registration of a society and the procedure in the matter of such applications,
- (c) prescribe the matters in respect of which a society may or shall make by-laws and for the procedure to be followed in making altering and abrogating by-laws, and the conditions to be satisfied prior to such making, alteration or abrogation,
- (d) prescribe the conditions to be complied with by persons applying for admission or admitted as members, and provide for the election and admission of members, and the payment to be made and the interests to be acquired before the exercise of the right of membership,
- (e) regulate the manner in which funds may be raised by means of shares or debentures or otherwise;
- (f) provide for general meetings of the members and for the procedure at such meetings and the powers to be exercised by such meetings,

(Rules.)

- (g) provide for the appointment, suspension and removal of the members of the committee and other officers, and for the procedure at meetings of the committee, and for the powers to be exercised and the duties to be performed by the committee and other officers;
- (h) prescribe the accounts and books to be kept by a society and provide for the audit of such accounts and the charges, if any, to be made for such audit, and for the periodical publication of a balance-sheet showing the assets and liabilities of a society;
- (i) prescribe the returns to be submitted by a society to the Registrar and provide for the persons by whom and the form in which such returns shall be submitted;
- (j) provide for the persons by whom and the form in which copies of entries in books of societies may be certified;
- (k) provide for the formation and maintenance of a register of members and, where the liability of the members is limited by shares, of a register of shares;
- (l) provide that any dispute touching the business of a society between members or past members of the society or persons, claiming through a member or past member or between a member or past member or persons so claiming and the committee or any officer shall be referred to the Registrar for decision or, if he so directs, to arbitration, and prescribe the mode of appointing an arbitrator or arbitrators and the procedure to be followed in proceedings before the Registrar or such arbitrator or arbitrators, and the enforcement of the decisions of the Registrar or the awards of arbitrators;
- (m) provide for the withdrawal and expulsion of members and for the payments, if any, to be made to members who withdraw or are expelled and for the liabilities of past members;
- (n) provide for the mode in which the value of a deceased member's interest shall be ascertained and for the nomination of a person to whom such interest may be paid or transferred;
- (o) prescribe the payments to be made and the conditions to be complied with by members applying for loans, the period for which loans may be made, and the amount which may be lent, to an individual member;

(Rules Miscellaneous)

(p) provide for the formation and maintenance of reserve funds, and the objects to which such funds may be applied, and for the investment of any funds under the control of the society,

(q) prescribe the extent to which a society may limit the number of its members,

(r) prescribe the conditions under which profits may be distributed to the members of a society with unlimited liability and the maximum rate of dividend which may be paid by societies,

(s) subject to the provisions of section 39, determine in what cases an appeal shall lie from the orders of the Registrar, and prescribe the procedure to be followed in presenting and disposing of such appeals, and

(t) prescribe the procedure to be followed by a liquidator appointed under section 42 and the cases in which an appeal shall lie from the order of such liquidator

(3) The Local Government may delegate, subject to such conditions, if any, as it thinks fit, all or any of its powers to make rules under this section to any authority specified in the order of delegation

(4) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication

(5) All rules made under this section shall be published in the local official Gazette and on such publication shall have effect as if enacted in this Act

Miscellaneous

44. (1) All sums due from a registered society or from an officer or member or past member of a registered society as such to the Government including any costs awarded to the Government under section 17 may be recovered in the same manner as arrears of land revenue Recovery of sums due to Government.

(2) Sums due from a registered society to Government and recoverable under sub-section (1) may be recovered, firstly, from the property of the society, secondly, in the case of a society of which the liability of the members is limited from the members subject to the limit of their liability, and, thirdly, in the case of other societies from the members

45. Notwithstanding anything contained in this Act the Local Government may by special order in each case and subject to such conditions if any as it may impose exempt any society from any of the requirements of this Act as to registration Power to exempt societies from conditions as to registration.

(Miscellaneous)

Power to exempt registered societies from provisions of the Act

46. The Local Government may, by general or special order, exempt any registered society from any of the provisions of this Act or may direct that such provisions shall apply to such society with such modifications as may be specified in the order

Prohibition of the use of the word 'co-operative'

47. (1) No person other than a registered society shall trade or carry on business under any name or title of which the word "co-operative" is part without the sanction of the Local Government

Provided that nothing in this section shall apply to the use by any person or his successor in interest of any name or title under which he traded or carried on business at the date on which this Act comes into operation

(2) Whoever contravenes the provisions of this section shall be punishable with fine which may extend to fifty rupees, and in the case of a continuing offence with further fine of five rupees for each day on which the offence is continued after conviction therefor

Indian Companies Act 1882 not to apply
Saving of existing societies

48. The provisions of the Indian Companies Act, 1882, shall not apply to registered societies

49. Every society now existing which has been registered under the Co-operative Credit Societies Act 1904 shall be deemed to be registered under this Act and its by-laws shall, so far as the same are not inconsistent with the express provisions of this Act continue in force until altered or rescinded

50. [Repeal] Repealed by s 3 and Sch II of the Second Repealing and Amending Act 1914 (17 of 1914)

See now the Indian Companies Act 1913 (" of 1913)

THE PUNJAB COURT OF WARDS ACT, 1903.

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or of whose person and property the Court of Wards by this Act constituted for the time being has assumed superintendence but shall not include a joint proprietor the superintendence of whose property has been assumed by the Court of Wards under section 8

CHAPTER II

THE COURT OF WARDS AND ITS JURISDICTION

Courts of
of the Co
of Wards
the Court
the Court

FINANCIAL COMMISSIONERS OFFICE
COMMISSIONER AND J.P. L. A., BATHINDA
SEPTEMBER 1907

Punjab Land Administration Act, Vol. 1
Court of Wards Act, II of 1903

Section 4

The Government
of India (Adapted
from the Indian
Law) 1911

For the word "Local" substitute the word "Financial"

344 FC. 1907-1908-1909-1910-1911

Power of
Local Govern-
ment to make
order in cer-
tain cases
directing the
Court of
Wards to as-
sume superin-
tendence of
property of
land-holders]

superintendence of the property of any such application the Government may if it considers expedient in the public interest so to do with an order accordingly

(2) When it appears to the Financial Government that any landholder is—

- (a) by reason of being a female or
- (b) owing to any physical or mental defect or infirmity or
- (c) owing to his having been convicted of a non-bailable offence and to his vicious habits or bad character or
- (d) owing to his having entered upon a course of wasteful extravagant and dissipated life

incapable of managing or unfitted to manage his affairs the Local Government may make an order directing that the property of such landholder be placed under the superintendence of the Court of Wards

Provide that such an order shall not be made on the ground stated in clause (c) or on the ground stated in clause (d) unless such landholder belongs to a family of political or social importance and

Provincial
 the ~~Local~~ Government is satisfied that it is desirable, on grounds of public policy or general interest, to make such order.

(3) Every order made by the ~~Local~~ *Provincial* Government under sub-section (1) or sub-section (2), shall be final and shall not be called in question in any Court of Law

6. When any land-holder is a minor or a person adjudged by ^{Power of} a competent Court to be of unsound mind and incapable of manag- ^{Court of} ing his affairs, the Court of Wards may make an order assuming the ^{Wards of} ~~superintendence of the property or the person and property of such~~ ^{own motion} to assume

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.

CORRECTION SLIP NO. 82-P.L. A., DATED LAHORE, THE 29TH
 SEPTEMBER, 1937.

Punjab Land Administration Acts, Volume I.

Court of Wards Act, II of 1903

Section 7 (1).

For the word " Local " substitute the word " Provincial ".

or of whose person, and property, the Court of Wards by this Act constituted for the time being has assumed superintendence, but shall not include a joint proprietor the superintendence of whose property has been assumed by the Court of Wards under section 8.

CHAPTER II.

THE COURT OF WARDS AND ITS JURISDICTION.

Constitution
of the
Court of
Wards
its jur-
isdiction.

4. (1) The Financial Commissioner shall be the

FINANCIAL COMMISSIONERS' OFFICE, F.R.

CORRECTION SLIP NO. 80-P. L. A., DATED 12th
SEPTEMBER, 1937.

Punjab Land Administration Acts, Volume I.

Court of Wards Act, II of 1903.

Section 4.

The Government
of India (Adapta-
tion of Indian
Laws) Order,
1937.

For the word "Local" substitute the word "Pro-
vincial" wherever it occurs

311 FC-2,609-22-10-37-GPP Lab

Power of
Local Gov-
ernment to
order in cer-
tain cases
directing the
Court of
Wards to as-
sume superin-
tendence of
properties of
land holders.]

such application, the ~~Local~~ ^{Provincial} Government may, if it considers ex-
pedient in the public interest so to do, make an order accordingly.

(2) When it appears to the ~~Local~~ ^{Provincial} Government that any land-
holder is—

- (a) by reason of being a female; or
- (b) owing to any physical or mental defect or infirmity, or
- (c) owing to his having been convicted of a non-bailable offence and to his vicious habits or bad character, or
- (d) owing to his having entered upon a course of wasteful extravagance likely to dissipate his property

incapable of managing or unfitted to manage his affairs, the ~~Local~~ ^{Provi.} Government may make an order directing that the property of such land-holder be placed under the superintendence of the Court of Wards.

Provided that such an order shall not be made on the ground stated in clause (c) or on the ground stated in clause (d) unless such land-holder belongs to a family of political or social importance and

³ Non liability
⁴ of land vested
 in the Court
 of Wards to
 sale for
 arrears of
 revenue
 Disabilities
 of wards

15 No ward shall be competent—

- (a) to transfer or create any charge on, or interest in, the whole or any part of his property which is under the superintendence of the Court of Wards, or to enter into any contract which may involve him in pecuniary liability

Provided that nothing in this clause shall be deemed to affect the capacity of a ward to enter into a contract of marriage but he shall not incur, in connection therewith any pecuniary liability, except such as, having regard to the personal law to which he is subject, and to his rank and circumstances the Court of Wards may, in writing, declare to be reasonable,

- (b) without the previous sanction in writing of the Court of Wards (1) to adopt or (2) to give permission to adopt, or (3) to dispose of any property by will

FINANCIAL COMMISSIONERS' OFFICE PUNJAB

CONNECTION SLIP NO 85 P L A , DATED LAHORE THE 23RD
 SEPTEMBER 1937

Punjab Land Administration Acts, Volume I

Court of Wards Act II of 1923

Section 15 (1)

For the word " Local " substitute the word " Provincial "

341 PC—570—* 125—62 PP Lahore

ratification made after he has ceased to be a ward of any promise or contract made during the above period, whether there shall or shall not be any new consideration for such promise or ratification

Power of the Court of Wards to act on behalf of wards and to deal with their properties

17. (1) The Court of Wards may, at any time, mortgage or sell the whole or any part of the property of a ward and grant leases or farms of the whole or any part of such property such terms as it thinks fit and may make such remissions of or other arrears and may generally and from time to time pass such orders and do all such acts not inconsistent with the provisions of this or any other enactment for the time being in force as it deems to be for the advantage of the ward or the benefit of his property

(2) The Court of Wards may, for the purpose of raising a loan for the benefit of a ward or his property, hypothecate with the consent of the Government any jagir, muafi pension or assignment of land revenue held by the ward

Deeds and other instruments

18. (1) All deeds, contracts or other instruments executed by the Court of Wards in the exercise of its powers of superintendence under this Act shall be executed by the Court of Wards in its own name

(2) Covenants entered into by the Court of Wards shall be binding on the Court of Wards only so long as the ward or the property affected by such covenants remains under its superintendence and only to the extent of such property, and such covenants shall be binding on the ward or on the person entitled to such property after the ward or the property or both (as the case may be) shall have been released from superintendence

(3) This section shall also apply to all deeds, contracts and other instruments executed before the commencement of this Act

Notice of suit

19. No suit relating to the person of any ward or to any property under the superintendence of the Court of Wards shall be instituted in any Civil or Revenue Court until the expiration of two months after notice in writing has been delivered to, or left at, the office of the Deputy Commissioner of the District specified in the order of assumption in the notification under section 9, stating the name and place of abode of the intending plaintiff, the cause of action and the relief which he claims, and the plaintiff shall contain a statement that such notice has been so delivered or left

Provided that notice under this section shall not be required in the case of any suit the period of limitation for which will expire within three months from the date of the notification under section 9

Suits to be in name of Court of Wards

20. (1) No suit (a) by or on behalf of a ward or (b) affecting any property under the superintendence of the Court of Wards shall be brought without the authority of the Court of Wards or of such officer as it may appoint in that behalf, and in every such

suit brought with such authority the Court of Wards shall be named as plaintiff

(2) In every suit against a ward or affecting property under the superintendence of Court of Wards, the Court of Wards shall be named as the defendant

(3) Suits brought by or against any Court of Wards may be instituted and conducted or defended on behalf of the Court of Wards by the Deputy Commissioner of the District specified in the order of assumption in the notification under section 9, or by the manager or other person authorized by general or special order or rule made under this Act, or that behalf, by the Court of Wards

CHAPTER V

GENERAL PROVISIONS AS TO THE SUPERINTENDENCE OF THE PERSONS AND PROPERTIES OF WARDS

21. Soon as conveniently may be after the assumption, by the Court of Wards, of the superintendence of the property of any person, the Deputy Commissioner of every district within which any part of such property may be situated or some person authorized, in writing, by him in this behalf, shall take possession of all such property and all accounts and papers relating thereto and shall do all other acts and things which may be necessary to secure and protect the same and place it under proper custody and control

Court of Wards assuming superintendence of the property to take possession thereof. Procedure as to property situated in other districts

22. The Court of Wards may from time to time direct such provision as it may think fit to be made in respect of the—

- (1) superintendence and supervision of the persons of the wards and properties under its superintendence,
- (2) periodical or special audit, by an independent auditor, of the accounts of properties generally, or of any particular property, as it may think fit,
- (3) management of the legal affairs of properties generally,

Powers of Court of Wards as to superintendence and control. Audit of accounts and management of legal affairs of wards and properties.

time being under its superintendence, and when he is a male minor, in respect of his education

(2) The Court of Wards may from time to time require any such male minor ward to attend such tutor, class, school or college, for the purposes of education as it thinks fit

Allowance
for ward and
his family

25. (1) The Court of Wards may from time to time determine what sum shall be allowed in respect of the expenses of any ward and of his family and dependents

(2) The Court of Wards may from time to time determine what sums may be spent on the education of any minor ward whose person is for the time being under its superintendence

CHAPTER VI

ASCERTAINMENT AND LIQUIDATION OF LIABILITIES OF WARDS

Notice to
claimants

26 (1) On the publication of a notification under section 9, the Deputy Commissioner of the District specified in the order of assumption or any other Deputy Commissioner whom the Court of Wards may appoint in that behalf shall publish in the *Gazette* a notice in both the English and the Urdu languages calling upon all persons having claims against the ward or against the property under the superintendence of the Court of Wards to notify the same in writing to such Deputy Commissioner within six months from the date of the publication of the notice

(2) The notice may also be published at such places and in such other manner as the Court of Wards may by general or special order direct or by rule made under this Act, prescribe

(3) The Deputy Commissioner may if he is satisfied that any claimant had reasonable excuse for not submitting his statement of claim within six months receive his claim at any time after the expiry of the period aforesaid but any claim so received shall unless the Deputy Commissioner otherwise directs and notwithstanding any law contract decree or award to the contrary cease to carry interest from the date of the expiry of the period aforesaid

Presentation
of claims

27 (1) Every claimant shall together with his statement of claim present full particulars thereof

(2) Every document (including entries in books of account) on which the claimant founds his claim or on which he relies in support thereof shall be produced before the Deputy Commissioner with the statement of claim

(3) Every such document shall be accompanied by a true copy of the same The Deputy Commissioner, or such officer as he may appoint in that behalf shall mark the original document for the purpose of identification and, after examining and comparing the copy with it shall retain the copy and return the original to the claimant

28. (1) The Deputy Commissioner shall, after such inquiry as he may consider necessary, decide, as to each claim made against any ward or property, in manner in section 26 and section 27 provided, whether such claim is, either in whole or in part, to be admitted. ^{Examination into, admission and rejection of, claims.} ~~... writing his decision~~

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.

CORRECTION SLIP NO. 83-P. L. A., DATED LAHORE, THE 29TH SEPTEMBER, 1937.

Punjab Land Administration Acts, Volume I.

Court of Wards Act, II of 1903.

Section 29.

For the word "Government" substitute the word "Crown".

344 FC-2,507-22-10-37-SGPP Lahore.
erty, releases the same from such superintendence without ascertaining and dealing with the liabilities thereof as in this chapter provided in that behalf, and that, in any such case, in computing the period of limitation applicable to any suit or application for the recovery of any such debt or the enforcement of any such liability, the time from the date of the notification of claim under section 26, to the date of the release of the property from the superintendence of the Court of Wards, shall be excluded.

30. If any document in the possession or under the control of the claimant is not produced by him as required by section 27, such document shall not be admissible in evidence in any suit or proceeding thereafter brought against a ward or as affecting any property under the superintendence of the Court of Wards by the claimant, or by any person claiming under him. ^{Exclusion of documents not produced}

31. (1) Nothing contained in this chapter shall be deemed to empower the Deputy Commissioner to disallow any claim, notified under section 26, which is based upon a decree passed by any competent Court, and any such decree may be proved by the production of a certified copy of the same accompanied by a certificate from the proper Court that such decree remains unsatisfied. ^{Decrees against wards or their properties and their execution.}

(2) On the publication of a notice under section 26, all suits and all proceedings in execution of any decree against a ward or as affecting any property under the superintendence of the Court of Wards then pending in any Civil Court shall be stayed until the

Duties and
responsibilities of managers

40 Every manager appointed by the Court of Wards shall, subject to the supervision and direction of the Court of Wards, and to the rules (if any) made, under this Act, in that behalf, manage the property or properties placed under his charge diligently and faithfully, and he shall—

- (a) give such security, if any, as the Court of Wards thinks fit duly to account for what he may receive in respect of the rents and profits and other income of the property under his charge;
- (b) keep accounts in such form and submit them at such times as the Court of Wards may direct,
- (c) deal with all money received by him in such manner as the Court of Wards may direct
- (d) apply for the sanction of the Court of Wards to any act which may involve the property in expense not previously sanctioned by it,
- (e) be entitled to such salary or allowance, to be paid out of the proceeds of such property, as the Court of Wards thinks fit, in respect of the execution of duties,
- (f) be responsible for any loss occasioned to the property by his negligence or wilful default, and
- (g) continue liable to account to the Court of Wards after he has ceased to be manager for his receipts and disbursements during the period of his management

Termination
of appointment
of guardian or
manager

41. The appointment of every guardian or manager appointed under this chapter, shall terminate on the Court of Wards ceasing to exercise superintendence of the person or property in respect of whom or which such guardian or manager, as the case may be, has been appointed

Guardians
and managers
to be deemed
to be public
servants and
managers and
certain
guardians to
be deemed to
be public
accountants

42. (1) Every guardian and manager appointed under this chapter shall be deemed to be a 'public servant' within the meaning of section 21 of the Indian Penal Code and for the purposes of that Code

(2) Every such manager shall be deemed to be a 'public accountant' within the meaning of the Public Accountants Act 1850, and every such guardian shall be deemed to be a 'public accountant' within the meaning and for the purposes of sections 3 to 5 of the Public Accountants Act 1850

(3) In the definition of "legal remuneration" contained in section 161 of the Indian Penal Code, the word 'Government' shall, for the purposes of this section, be deemed to include the Court of Wards

43. If no such guardian or manager is appointed by the Court of Wards, the Deputy Commissioner of the district specified in the order of assumption in the notification under section 9 or any other <sup>Deputy Com-
missioner
when to
discharge the
duties of
guardian or</sup> ~~section 7 when the Court of Wards may appoint in~~

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB

CORRECTION SLIP NO 90-P L A, DATED LAHORE, THE 29TH
SEPTEMBER, 1937

Punjab Land Administration Acts, Volume I.

Court of Wards Act, II of 1903

Section 44.

For the word "Local" substitute the word "Provincial".

344 FC-2500-22 10-37-SGPP Lahore.

~~and dies or ceases to be under any legal~~ ^{superintendent}
FINANCIAL COMMISSIONER ~~and his death~~

(2) Such appointment shall take effect from the date of such release

(3) In appointing a guardian under this section the Court of Wards shall be guided by the provisions of section 17 of the Guardians and Wards Act, 1890, and in every such case the Deputy Commissioner of the District specified in the order of assumption in the notification under section 9 shall have the powers conferred upon a Deputy Commissioner under section 30 (2)

(4) Every such guardian shall have and be subject to the same rights duties and liabilities as if he had been appointed under the Guardians and Wards Act 1890

Disposal of property after the death of a person of whose property the Court of Wards has assumed superintendence

48 Whenever in the event of the death of any person of whose property the Court of Wards has assumed superintendence the succession to his property or any part thereof is unclaimed or disputed the Court of Wards may either direct that the property, or part thereof be made over to any person entitled to or claiming the same or may institute a suit of interpleader against the several claimants or may retain the superintendence thereof until a claimant has in due course of law established his title thereto a competent Court

Delivery of documents and accounts on release of property

49 Whenever the Court of Wards releases the property of a person from its superintendence it shall deliver to such person if it has appointed a guardian under sub section (1) of section to such guardian all documents of title and all papers and accounts (other than Government records) relating to such property

Notification as to release from superintendence

50 Whenever the Court of Wards releases any person or property from its superintendence the fact of such release shall be notified in the Gazette and such release shall take effect from the date fixed in this behalf in the notification

Recovery of expenses

51 Any expense incurred by the Court of Wards on account of any property under its superintendence may after the release of such property be recovered as an arrear of land revenue due in respect of such property or any part thereof

CHAPTER IX

MISCELLANEOUS PROVISIONS

Bar of suits and proceedings

52. (1) No suit shall be brought in any Civil Court in respect of the exercise of any discretion conferred by this Act

(2) No suit shall be brought

of Government and discharging by him in good

in a suit under this Act

4 The Court of Wards may, with the previous sanction of
FINANCIAL COMMISSIONERS OF PUNJAB,

CORRECTION SLIP NO. 93-P. L. A., DATED LAHORE, THE 23RD
SEPTEMBER, 1937.

Punjab Land Administration Acts, Volume I

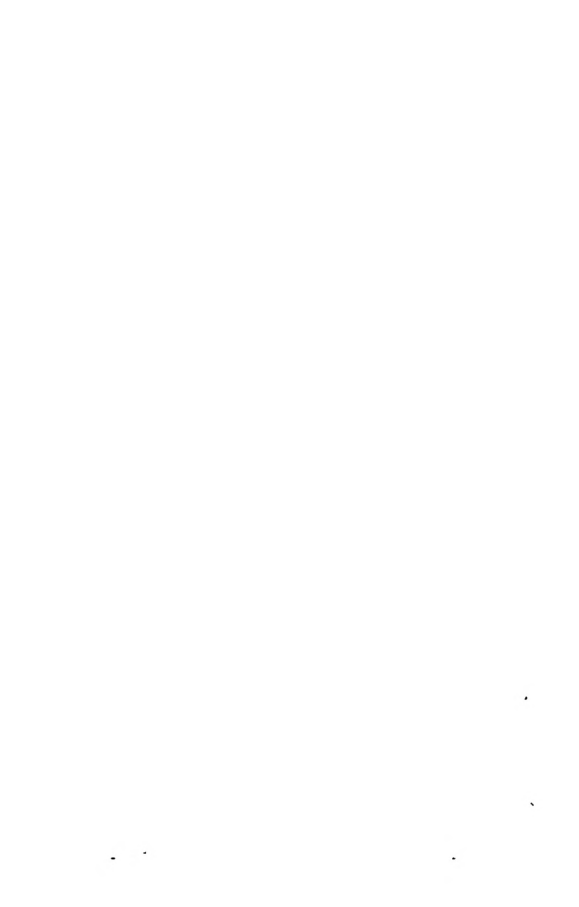
Court of Wards Act, II of 1903.

Section 51.

Government of
(Adaptation
of Indian Laws)
27th Dec, 1937

For the word "Local" substitute the word "Provincial",

Number and year	Title	Extent of repeal
XXVI of 1854	Placement of male minors subject to the superintendence of the Court of Wards	The whole so far as it applies to the Punjab
IV of 1872	The Punjab Laws Act 1872	Repeals it to the extent
XII of 1878	Amendment of the Punjab Laws Act 1872	Repeals it to the extent



THE INDIAN FOREST ACT, 1927.
(Act XVI of 1927).

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FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.

CORRECTION SLIP NO 115 P L A., DATED LAHORE, THE 23RD SEP-
TEMBER, 1938.

Punjab Land Administration Acts, Volume I.

The Indian Forest Act, XVI of 1927.

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*For the words " Local Government " substitute the words
" Provincial Government "*

[Government of India (Adaptation of Indian Laws) Order, 1937.]

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ACT NO. XVI OF 1927.

[PASSED BY THE INDIAN LEGISLATURE]

(Received the assent of the Governor General on the 21st
September, 1927)

As amended by—

Act XXVI of 1930 and

Act III of 1933

An Act to consolidate the law relating to forests the transit of forest-produce and the duty leviable on timber and other forest-produce.

WHEREAS it is expedient to consolidate the law relating to forests, the transit of forest produce and the duty leviable

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB

CORRECTION SLIP NO 116 P L A , DATED LAHORE, THE 23RD SEP-
TEMBER, 1938

Punjab Land Administration Acts, Volume I.

The Indian Forest Act, XVI of 1927

*Sections 1 (3), 4, 17, 20, 27, 29, 30, 35, 38, 39 (1), 45, 68, 71,
78, and 80*

*For the words " local official Gazette " substitute the words
" Official Gazette "*

[Government of India (Adaptation of Indian Laws) Order, 1937.]

302 FC-3,500-17 10 32-SGPP Lahore

~~FINANCIAL COMMISSIONERS' OFFICE, PUNJAB~~
FINANCIAL COMMISSIONERS' OFFICE, PUNJAB

CORRECTION SLIP NO 101 P I A DATED LAHORE THE 23RD

(Chapter II—Of Reserved Forests)

Powers of
Forest Settlement-
officer

8. For the purpose of such inquiry, the Forest Settlement-officer may exercise the following powers, that is to say —

(a) power to enter, by himself or any officer authorised by him for the purpose, upon any land, and to survey, demarcate and make a map of the same, and

(b) the powers of a Civil Court in the trial of suits

Extinction of
rights

9 Rights in respect of which no claim has been preferred under section 6, and of the existence of which no knowledge has been acquired by inquiry under section 7, shall be extinguished, unless before the notification under section 20 is published, the person claiming them satisfies the Forest Settlement officer that he had sufficient cause for not preferring such claim within the period fixed under section 6

Treatment of
claims
relating to
practice of
shifting
cultivation

10 (1) In the case of a claim relating to the practice of shifting cultivation, the Forest Settlement officer shall record a statement setting forth the particulars of the claim and of any local rule or order under which the practice is allowed or regulated, and submit the statement to the ^{permitted} Local Government, together with his opinion as to whether the practice should be permitted or prohibited wholly or in part

(2) On receipt of the statement and opinion the Local Government may make an order permitting or prohibiting the practice wholly or in part

(3) If such practice is permitted wholly or in part, the Forest Settlement officer may arrange for its exercise—

(a) by altering the limits of the land under settlement so as to exclude land of sufficient extent, of a suitable kind and in a locality reasonably convenient for the purposes of the claimants or

(b) by causing certain portions of the land under settlement to be separately demarcated, and giving permission to the claimants to practice shifting cultivation there in under such conditions as he may prescribe

(4) All arrangements made under sub section (3) shall be subject to the previous sanction of the Local Government

(5) The practice of shifting cultivation shall in all cases be deemed a privilege subject to control restriction and abolition by the Local Government

Power to
acquire land
over which
right is
claimed

11. (1) In the case of a claim to a right in or over any land, other than a right of way or right of pasture, or a right to forest-produce or a water course the Forest Settlement officer shall pass an order admitting or rejecting the same in whole or in part

(2) If such claim is admitted in whole or in part the Forest Settlement-officer shall either—

(c) exclude such land from the limits of the proposed forest, or

(Chapter II—Of Reserved Forests)

- (ii) come to an agreement with the owner thereof for the surrender of his rights, or
- (iii) proceed to acquire such land in the manner provided by the Land Acquisition Act, 1894
- (3) For the purpose of so acquiring such land—
 - (a) the Forest Settlement officer shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1894,
 - (b) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section 9 of that Act,
 - (c) the provisions of the preceding sections of that Act shall be deemed to have been complied with, and
 - (d) The Collector, with the consent of the claimant, or the Court with the consent of both parties, may award compensation in land, or partly in land and partly in money

12. In the case of a claim to rights of pasture or to forest-produce, the Forest Settlement officer shall pass an order admitting or rejecting the same in whole or in part

Order on claims to rights of pasture or to forest-produce.

13. The Forest Settlement-officer, when passing any order under section 12, shall record, so far as may be practicable,—

Record to be made by Forest Settlement-officer

- (a) the name, father's name, caste, residence and occupation of the person claiming the right, and
- (b) the designation, position and area of all fields or groups of fields (if any) and the designation and position of all buildings (if any) in respect of which the exercise of such rights is claimed

14. If the Forest Settlement-officer admits in whole or in part any claim under section 12, he shall also record the extent to which the claim is so admitted, specifying the number and description of the cattle which the claimant is from time to time entitled to graze in the forest, the season during which such pasture is permitted the quantity of timber and other forest produce which he is from time to time authorised to take or receive, and such other particulars as the case may require. He shall also record whether the timber or other forest produce obtained by the exercise of the rights claimed may be sold or bartered

Record where he admits claim

(1) After making such record the Forest Sett'g officer shall, to the best of his ability, and having due regard to the maintenance of the reserved forest in respect of which the

Record to be made by Forest Settlement-officer

(Chapter II.—Of Reserved Forests)

Powers of
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8. For the purpose of such inquiry, the Forest Settlement-officer may exercise the following powers, that is to say:—

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(b) by causing certain portions of the land under settlement to be separately demarcated, and giving permission to the claimants to practice shifting cultivation thereunder under such conditions as he may prescribe

(4) All arrangements made under sub-section (3) shall be subject to the previous sanction of the Local Government

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11. (1) In the case of a claim to a right in or over any land, other than a right-of-way or right of pasture, or a right to forest-produce or a water-course, the Forest Settlement-officer shall pass an order admitting or rejecting the same in whole or in part

(2) If such claim is admitted in whole or in part, the Forest Settlement-officer shall either—

(a) exclude such land from the limits of the proposed forest; or

(Chapter 11 —Of Reserved Forests)

- (ii) come to an agreement with the owner thereof for the surrender of his rights, or
- (iii) proceed to acquire such land in the manner provided by the Land Acquisition Act, 1894
- (3) For the purpose of so acquiring such land—
 - (a) the Forest Settlement-officer shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1894,
 - (b) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section 9 of that Act,
 - (c) the provisions of the preceding sections of that Act shall be deemed to have been complied with, and
 - (d) The Collector, with the consent of the claimant, or the Court, with the consent of both parties, may award compensation in land, or partly in land and partly in money

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- (a) the name, father's name, caste, residence and occupation of the person claiming the right, and
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Record when he admits claim

(7) After making such record the Forest Settlement-officer shall, to the best of his ability, and having due regard to the maintenance of the reserved forest in respect of which the

Examination of records admitted.

(Chapter, II.—Of Reserved Forests.)

Powers of
Forest Settlement-
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(2) On receipt of the statement and opinion, the Local Government may make an order permitting or prohibiting the practice wholly or in part.

(3) If such practice is permitted wholly or in part, the Forest Settlement-officer may arrange for its exercise—

(a) by altering the limits of the land under settlement so as to exclude land of sufficient extent, of a suitable kind, and in a locality reasonably convenient for the purposes of the claimants, or

(b) by causing certain portions of the land under settlement to be separately demarcated, and giving permission to the claimants to practice shifting cultivation there-in under such conditions as he may prescribe.

(4) All arrangements made under sub-section (3) shall be subject to the previous sanction of the Local Government.

(5) The practice of shifting cultivation shall in all cases be deemed a privilege subject to control, restriction and abolition by the Local Government.

Power to
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claimed.

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(2) If such claim is admitted in whole or in part, the Forest Settlement-officer shall either—

(i) exclude such land from the limits of the proposed forest; or

(Chapter II —Of Reserved Forests.)

- (ii) come to an agreement with the owner thereof for the surrender of his rights, or
- (iii) proceed to acquire such land in the manner provided by the Land Acquisition Act, 1894
- (3) For the purpose of so acquiring such land—

- (a) the Forest Settlement-officer shall be deemed to be a Collector proceeding under the Land Acquisition Act, 1894,
- (b) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section 9 of that Act;
- (c) the provisions of the preceding sections of that Act shall be deemed to have been complied with; and
- (d) The Collector, with the consent of the claimant, or the Court, with the consent of both parties, may award compensation in land, or partly in land and partly in money

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Record to be made by Forest Settlement-officer

- (a) the name, father's name, caste, residence and occupation of the person claiming the right, and
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Record where he admits claim

(1) After making such record the Forest Settlement-officer shall, to the best of his ability, and having due regard to the maintenance of the reserved forest in respect of which the

Execution of Rights of Settlement.

(Chapter II—O)

PUNJAB THE 22d

or that the rights admitted in
section 16

No right
acquired
over reserved
forest, except
as here
provided.

23. No right of any person over
a reserved forest except by
a grant in writing made by or
some person in whom such right
under section 20 was issued

Rights not to
be alienated
without
sanction

24. (1) Notwithstanding
no right continued under section
15 shall be alienated by
otherwise, without the sanction

Provided that, when such right is appendant to any
land or house, it may be otherwise alienated with such land
or house

(2) No timber or other forest-produce obtained in exercise
of any such right shall be sold or bartered except to such extent
as may have been admitted in the order recorded under section
11

Power to
stop ways
and water
courses in
reserved
forests

25. The Forest-officer may, with the previous sanction of
the Local Government or of any officer duly authorised by it
in this behalf, stop any public or private way or water-course in
a reserved forest, provided that a substitute for the way or water-
course so stopped, which the Local Government deems to be reason-
ably convenient, already exists, or has been provided or constructed
by the Forest-officer in lieu thereof

Acts prohibi-
ted in such
forests

(1) Any person who—

- (a) makes any fresh clearing prohibited by section 5, or
- (b) sets fire to a reserved forest, or, in contravention of any
rules made by the Local Government in this behalf,
kindles any fire, or leaves any fire burning, in such
manner as to endanger such a forest,

or who, in a reserved forest—

- (c) kindles, keeps or carries any fire except at such seasons
as the Forest-officer may notify in this behalf;
- (d) trespasses or pastures cattle, or permits cattle to tres-
pass;
- (e) causes any damage by negligence in felling any tree or
cutting or dragging any timber,
- (f) fells, girdles, lops, taps or burns any tree or strips off
the bark or leaves from, or otherwise damages, the
same;
- (g) quarries stone, burns lime or charcoal, or collects, sub-
jects to any manufacturing process, or removes, any
forest-produce;

(Chapter II —Of Reserved Forests Chapter III —Of
Village Forests)

- (h) clears or breaks up any land for cultivation or any other purpose,
- (i) in contravention of any rules made in this behalf by the Local Government hunts shoots fishes poisons water or sets traps or snares, or
- (j) in any area in which the Elephants Preservation Act, 1879 is not in force kills or catches elephants in contravention of any rules so made

shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both in addition to such compensation

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.

CORRECTION SLIP NO 104 P L A DATED LAHORE, THE 23RD
SEPTEMBER, 1938

Punjab Land Administration Acts, Volume I

The Indian Forest Act XVI of 1927

Section 26 Page 13

For the words "on behalf of Government" substitute the words "on behalf of the Crown"

[Government of India (Adaptation of Indian Laws) Order, 1937]

that any penalty has been inflicted under this Act by any person

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB

CORRECTION SLIP NO 105 P L A DATED LAHORE THE 23RD
SEPTEMBER 1938

Punjab Land Administration Acts, Volume I

The Indian Forest Act XVI of 1927

Section 27 Page 13

Omit the words "subject to the control of the Governor General in Council"

[Government of India (Adaptation of Indian Laws) Order, 1937]

23. (1) The ~~Local~~ Government may assign to any village-formation of community the rights of Government to or over any land which village-formation has constituted a reserved forest and may cancel such forests.

(Chapter III—Of Village forests :Chapter IV—Of
Protected Forests)

(2) The Local Government may make rules for regulating the management of village-forests prescribing the conditions under which the community to which any such assignment is made may be provided with timber or other forest produce or pasture, and their duties for the protection and improvement of such forest

(3) All the provisions of this Act relating to reserved forests shall (so far as they are not inconsistent with the rules so made) apply to village-forests

CHAPTER IV

OF PROTECTED FORESTS

Protected
forests

29 (1) The ~~Local~~^{Provincial} Government may, by notification in the ~~local~~ official Gazette declare the provisions of this Chapter applicable to any forest land or waste-land which is not included in a reserved forest, but which is the property of Government, or over which the Government has proprietary rights or to the whole or any part of the forest produce of which the Government is entitled

(2) The forest land and waste lands comprised in any such notification shall be called a ' protected forest '

(3) No such notification shall be made unless the nature and extent of the rights of Government and of private persons in or over the forest land or waste land comprised therein have been inquired into and recorded at a survey or settlement, or in such other manner as the Local Government thinks sufficient Every such record shall be presumed to be correct until the contrary is proved

Provided that if in the case of any forest land or waste-land the Local Government thinks that such inquiry and record are necessary but that they will occupy such length of time as in the meantime to endanger the rights of Government the Local Government may pending such inquiry and record, declare such land to be a protected forest but so as not to abridge or affect any existing rights of individuals or communities

30 The ~~Local~~^{Provincial} Government may, by notification in the ~~local~~ official Gazette —

(a) declare any trees or class of trees in a protected forest to be reserved from a date fixed by the notification,

(b) declare that any portion of such forest specified in the notification shall be closed for such term, not exceeding thirty years as the Local Government thinks fit, and that the rights of private persons if any, over such portion shall be suspended during such term, provided that the remainder of such forest be sufficient and in a locality reasonably convenient for the

Power to
issue notification
reserving
trees etc

(Chapter IV —Of Protected Forests)

due exercise of the rights suspended in the portion so closed, or

- (c) prohibit, from a date fixed as aforesaid, the quarrying of stone, or the burning of lime or charcoal, or the collection or subjection to any manufacturing process, or removal of, any forest-produce in any such forest, and the breaking up or clearing for cultivation, for building, for herding cattle or for any other purpose, of any land in any such forest

31. The Collector shall cause a translation into the local vernacular of every notification issued under section 30 to be affixed in a conspicuous place in every town and village in the neighbourhood of the forest comprised in the notification

Publication of translation of such notification in neighbourhood

32. The ^{Provincial} Government may make rules to regulate the following matters namely —

Power to make rules for protected forests

- (a) the cutting, sawing conversion and removal of trees and timber, and the collection, manufacture and removal of forest produce, from protected forests,
- (b) the granting of licences to the inhabitants of towns and villages in the vicinity of protected forests to take trees, timber or other forest produce for their own use, and the production and return of such licences by such persons,
- (c) the granting of licences to persons felling or removing trees or timber or other forest produce from such forests for the purposes of trade and the production and return of such licences by such persons,
- (d) the payments if any, to be made by the persons mentioned in clauses (b) and (c) for permission to cut such trees or to collect and remove such timber or other forest produce
- (e) the other payments if any to be made by them in respect of such trees timber and produce, and the places where such payment shall be made,
- (f) the examination of forest produce passing out of such forests,
- (g) the clearing and breaking up of land for cultivation or other purposes in such forests,
- (h) the protection from fire of timber lying in such forests and of trees reserved under section 30.
- (i) the cutting of grass and pasturing of cattle in such forests,
- (j) hunting shooting fishing poisoning water and setting traps or snares in such forests and the killing or catching of elephants in such forests in areas in which the Elephants' Preservation Act 1879, is not in force,

(Chapter III—Of Village forests Chapter IV—Of
Protected Forests)

(2) The Local Government may make rules for regulating the management of village forests prescribing the conditions under which the community to which any such assignment is made may be provided with timber or other forest produce or pasture and their duties for the protection and improvement of such forest

(3) All the provisions of this Act relating to reserved forests shall (so far as they are not inconsistent with the rules so made) apply to village-forests

CHAPTER IV

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(2) The forest land and waste lands comprised in any such notification shall be called a protected forest

(3) No such notification shall be made unless the nature and extent of the rights of Government and of private persons in or over the forest land or waste land comprised therein have been inquired into and recorded at a survey or settlement or in such other manner as the Local Government thinks sufficient Every such record shall be presumed to be correct until the contrary is proved

Provided that if in the case of any forest land or waste land the Local Government thinks that such inquiry and record are necessary but that they will occupy such length of time as in the meantime to endanger the rights of Government the Local Government may pending such inquiry and record declare such land to be a protected forest but so as not to abridge or affect any existing rights of individuals or communities

Power to
issue notification
reserving
trees &c

30 The ^{Provincial} Local Government may by notification in the ~~local~~ official Gazette—

(a) declare any trees or class of trees in a protected forest to be reserved from a date fixed by the notification,

(b) declare that any portion of such forest specified in the notification shall be closed for such term not exceeding thirty years as the Local Government thinks fit and that the rights of private persons if any over such portion shall be suspended during such term provided that the remainder of such forest be sufficient and in a locality reasonably convenient for the

(Chapter V—Of the Control over Forests and Lands not being the Property of Government)

CHAPTER V

OF THE CONTROL OVER FORESTS AND LANDS NOT BEING THE PROPERTY OF GOVERNMENT

35. (1) The ^{Provincial} ~~Local~~ Government may, by notification in the ^{Prevention of} ~~Official Gazette~~, regulate or prohibit in any forest or waste-land— ^{forests for} ~~land—~~ ^{special} ~~purpose~~

- (a) the breaking up or clearing of land for cultivation,
- (b) the pasturing of cattle, or
- (c) the firing or clearing of the vegetation,

when such regulation or prohibition appears necessary for any of the following purposes—

- (i) for protection against storms, winds, rolling stones, floods and avalanches,
- (ii) for the preservation of the soil on the ridges and slopes and in the valleys of hilly tracts the prevention of landslips or of the formation of ravines and torrents, or the protection of land against erosion, or the deposit thereon of sand, stones or gravel,
- (iii) for the maintenance of a water-supply in springs, rivers and tanks,
- (iv) for the protection of roads, bridges, railways and other lines of communication,
- (v) for the preservation of the public health.

(2) The Local Government may, for any such purpose construct at its own expense, in or upon any forest or waste-land, such work as it thinks fit.

(3) No notification shall be made under sub-section (1) nor shall any work be begun under sub-section (2), until after the issue of a notice to the owner of such forest or land calling on him to show cause, within a reasonable period to be specified in such notice, why such notification should not be made or work constructed, as the case may be, and until his objections, if any, and any evidence he may produce in support of the same, have been heard by an officer duly appointed in that behalf and have been considered by the Local Government.

36. (1) In case of neglect of or wilful disobedience to any regulation or prohibition under section 35, or if the purpose of any work to be constructed under that section so require, the ^{Local} ~~Government~~ Government may, after notice in writing to the owner of such forest or land and after considering his objections, if any, place the same under the control of a Forest Officer and may declare that all or any of the provisions of this Act relating to reserved forests shall apply to such forest or land.

(Chapter V—Of the Control over Forests and Lands not being the Property of Government Chapter VI—Of the Duty on Timber and other Forest-produce)

(2) The net profits, if any, arising from the management of such forest or land shall be paid to the said owner

Expropriation
of forests in
certain
cases

37. (1) In any case under this Chapter in which the ^{Provincial} Local Government considers that, in lieu of placing the forest or land under the control of a Forest-officer, the same should be acquired for public purposes, the ^{Provincial} Local Government may proceed to acquire it in the manner provided by the Land Acquisition Act, 1894

(2) The owner of any forest or land comprised in any notification under section 35 may, at any time not less than three or more than twelve years from the date thereof, require that such forest or land shall be acquired for public purposes, and the Local Government shall acquire such forest or land accordingly

Protection of
forests at
request of
owners

38. (1) The owner of any land or, if there be more than one owner thereof, the owners of shares therein amounting in the aggregate to at least two-thirds thereof may, with a view to the formation or conservation of forests thereon, represent in writing to the Collector their desire—

(a) that such land be managed on their behalf by the Forest-officer as a reserved or a protected forest on such terms as may be mutually agreed upon or

(b) that all or any of the provisions of this Act be applied to such land

(2) In either case the ^{Provincial} Local Government may by notification in the ~~Local~~ official Gazette, apply to such land such provisions of this Act as it thinks suitable to the circumstances thereof and as may be desired by the applicants

CHAPTER VI

OF THE DUTY ON TIMBER AND OTHER FOREST-PRODUCE

Power to
impose duty
on timber and
other forest
produce

39. (1) The ^{Central} Local Government may levy a duty in such manner, at such places and at such rates as it may declare by notification in the ~~Local~~ official Gazette on all timber or other forest-produce—

(a) which is produced in British India, and in respect of which the ^{Central} Government has any right,

(b) which is brought from any place outside British India

Provided that a notification directing the levy of a duty, in the case of timber and other forest-produce brought from any place outside British India which is not under the control of the Local Government, shall not be issued without the previous sanction of the Governor-General in Council

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.

CORRECTION SLIP NO 106 P. L. A., DATED LAHORE, THE 21ST
SEPTEMBER, 1939

Punjab Land Administration Acts, Volume I.

The Indian Forest Act, XVI of 1927

Section 39. Pages 18 19.

(a) In sub sections (1) and (2), for the words " Local Govern-
ment " substitute the words " Central Government "

(b) In sub section (1), for the words " the Government " sub-
stitute the words " the Crown " and omit the proviso

(c) After sub section 3 insert —

(4) Until provision to the contrary is made by the Central
Legislature, any Provincial Government which was
immediately before the commencement of Part III of
the Government of India Act, 1935, levying a duty
on any timber or other forest produce produced in
that Province may continue to levy that duty on such
timber or forest produce

Provided that nothing in this sub section authorises the levy
of any duty which as between timber or other forest
produce of the Province and similar produce of the
locality outside the Province, discriminates in favour
of the former, or which, in the case of timber or
other forest produce of localities outside the Province,
discriminates between timber or other forest produce
of one locality and similar timber or other forest
produce of another locality "

[Government of India (Adaptation of Indian Laws) Order 1937]

or other produce without a pass from an officer duly
authorised to issue the same, or otherwise than in
accordance with the conditions of such pass,

(c) provide for the issue, production and return of such
passes and for the payment of fees therefor,

(d) provide for the stoppage reporting, examination and
marking of timber or other forest produce in transit,
in respect of which there is reason to believe that any
money is payable to ~~Government~~ on account of the
price thereof, or on account of any duty, fee royalty
or charge due thereon, or, to which it is desirable for
the purposes of this Act to affix a mark.

(e) provide for the establishment and regulation of depots
to which such timber or other produce shall be taken

(Chapter VII—Of the Control of Timber and other Forest-produce in Transit)

by those in charge of it for examination, or for the payment of such money, or in order that such marks may be affixed to it, and the conditions under which such timber or other produce shall be brought to, stored at and removed from such depots,

(f) prohibit the closing up or obstructing of the channel or banks of any river used for the transit of timber or other forest produce and the throwing of grass, brushwood, branches or leaves into any such river or any act which may cause such river to be closed or obstructed,

(g) provide for the prevention or removal of any obstruction of the channel or banks of any such river, and for recovering the cost of such prevention or removal from the person whose act caused the obstruction.

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB

(CORRECTION SLIP NO. 103 P L 4, DATED LAHORE, THE 23RD SEPTEMBER, 1933.)

Punjab Land Administration Acts, Volume I.

The Indian Forest Act, XVI of 1927.

Page 20

After section 41 insert:—

"41A Notwithstanding anything in section 41 the Central Government may make rules to prescribe the route by which all timber or other forest produce may be imported, exported, or moved into or from British India across any customs frontier as defined by the Central Government and any rules made under section 41 shall have effect subject to the rules made under this section."

(1) The Government may make rules (in addition of Indian Laws) Order, 1937.)

which may extend to five

rupees, or both

(2) Such rules may provide that penalties which are double of those mentioned in sub section (1) may be inflicted in cases where the offence is committed after sunset and before sunrise or after preparation for resistance to lawful authority, or where the offender has been previously convicted of a like offence

43. The Government shall not be responsible for any loss or damage which may occur in respect of any timber or other forest-produce while at a depot established under a rule made under section 41, or while detained elsewhere, for the purposes of this Act, and no Forest officer shall be responsible for any such

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB

CORRECTION SLIP NO. 110 P L A, DATED LAHORE, THE 29TH
SEPTEMBER, 1933

Punjab Land Administration Acts, Volume I.

The Indian Forest Act, XVI of 1927.

Section 44. Page 21.

For the word "Government" substitute the word "Crown"
[Government of India (Adaptation of Indian Laws) Order, 1937.]

erty from damage

CHAPTER VIII

OF THE COLLECTION OF DRIFT AND STRANDED TIMBER

45 (1) All timber found adrift beached, stranded or sunk, Certain kinds of timber to be deemed property of Government until title thereto proved and may be collected accordingly,

all wood or timber bearing marks which have not been registered in accordance with the rules made under section 41, or on which the marks have been obliterated altered or defaced by fire or otherwise, and

in such areas as the ^{Provincial} Local Government directs, all unmarked wood and timber,

shall be deemed to be the property of Government, unless and until any person establishes his right and title thereto, as provided in this Chapter

(2) Such timber may be collected by any Forest officer or other person entitled to collect the same by virtue of any rule made under section 51, and may be brought to any depot which the Forest officer may notify as a depot for the reception of drift timber

(3) The ^{Provincial} Local Government may, by notification in the Local official Gazette, exempt any class of timber from the provisions of this section

46. Public notice shall from time to time be given by the Forest-officer of timber collected under section 45. Such notice shall contain a description of the timber, and shall require any person claiming the same to present to such officer, within a period not less than two months from the date of such notice, a written statement of such claim Notice to claimants of drift timber,

such statement is presented as aforesaid, Procedure on claim pres

(Chapter VII—Of the Control of Timber and other Forest produce in Transit)

by those in charge of it for examination, or for the payment of such money or in order that such marks may be affixed to it and the conditions under which such timber or other produce shall be brought to, stored at and removed from such depots,

(f) prohibit the closing up or obstructing of the channel or banks of any river used for the transit of timber or other forest produce and the throwing of grass brushwood branches or leaves into any such river or any act which may cause such river to be closed or obstructed

(g) provide for the prevention or removal of any obstruction of the channel or banks of any such river and for recovering the cost of such prevention or removal from the person who causes the same

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB

CORRECTION SLIP NO 109 P L A, DATED LAHORE THE 23RD SEPTEMBER, 1939

Section 41 of the Indian Forest Act, 1927

Section 41 of the Indian Forest Act, 1927

Section 41

Section 41 of the Indian Forest Act, 1927

Section 41 of the Indian Forest Act, 1927. The Central Government may prescribe the route by which forest produce may be carried to or from British India. Any forest produce carried to the Central Government under section 41 shall be subject to the rules made under this section.

Section 41 of the Indian Forest Act, 1927. The Central Government may extend to five

(2) Such rules may provide that penalties which are double of those mentioned in sub-section (1) may be inflicted in cases where the offence is committed after sunset and before sunrise or after preparation for resistance to law enforcement where the offender has been

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB

CORRECTION SLIP NO 109 P L A, DATED LAHORE THE 23RD SEPTEMBER, 1939

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.

CORRECTION SLIP NO. 110-P. L. A., DATED LAHORE, THE 23RD
SEPTEMBER, 1939.

Punjab Land Administration Acts, Volume I.

The Indian Forest Act, XVI of 1927.

Section 44, Page 21.

For the word "Government" substitute the word "Crown"
[Government of India (Adaptation of Indian Laws) Order, 1937.]

erty from damage or loss.

CHAPTER VIII.

OF THE COLLECTION OF DRIFT AND STRANDED TIMBER.

45. (1) All timber found adrift, beached, stranded or sunk; Certain kinds of timber to be deemed property of Government until title thereto proved, and may be collected accordingly.
all wood or timber bearing marks which have not been registered in accordance with the rules made under section 41, or on which the marks have been obliterated, altered or defaced by fire or otherwise; and
in such areas as the ~~Local~~ ^{Provincial} Government directs, all unmarked wood and timber;

shall be deemed to be the property of Government, unless and until any person establishes his right and title thereto, as provided in this Chapter.

(2) Such timber may be collected by any Forest-officer or other person entitled to collect the same by virtue of any rule made under section 51, and may be brought to any depôt which the Forest-officer may notify as a depôt for the reception of drift timber.

(3) The ~~Local~~ ^{Provincial} Government may, by notification in the ~~Local~~ official Gazette, exempt any class of timber from the provisions of this section.

46. Public notice shall from time to time be given by the Forest-officer of timber collected under section 45. Such notice shall contain a description of the timber, and shall require any person claiming the same to present to such officer, within a period not less than two months from the date of such notice, a written statement of such claim. Notice to claimants of drift timber.

47. (1) When any such statement is presented as aforesaid, the Forest-officer may, after making such inquiry as he thinks fit, either reject the claim after recording his reasons for so doing, or deliver the timber to the claimant. Proceedure on claim presented to such officer.

(2) If such timber is claimed by more than one person, the Forest-officer may either deliver the same to any of such persons whom he deems entitled thereto, or may refer the claimants to

(Chapter VIII—Of the Collection of Drift and Stranded Tim-
ber, and Penalties and Procedure)

the may prescribe, as penalties for
made under this section, imprison-
ment for a term which may extend to six months, or fine which may
extend to five hundred rupees, or both

CHAPTER IX.

PENALTIES AND PROCEDURE

52. (1) When there is reason to believe that a forest-offence has been committed in respect of any forest-produce, such produce, together with all tools, boats, carts or cattle used in committing any such offence, may be seized by any forest officer or Police-officer. Seizure of
property
liable to
confiscation.

(2) Every officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made

Provided that, when the forest-produce with respect to which such offence is believed to have been committed is the property of Government, and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior

53. Any forest officer of a rank not inferior to that of a Power to
release
he or whose subordinate has seized any tools, boats, property
under section 52, may release the same on the seized under
tender thereof of a bond for the production of the section 52.
before the Magistrate

Procedure when offender not known, or cannot be found

(Chapter IX —Penalties and Procedure)

57. When the offender is not known or cannot be found, the Magistrate may, if he finds that an offence has been committed, order the property in respect of which the offence has been committed to be confiscated and taken charge of by the Forest officer, or to be made over to the person whom the Magistrate deems to be entitled to the same

Provided that no such order shall be made until the expiration of one month from the date of seizing such property, or without hearing the person, if any, claiming any right thereto, and the evidence if any, which he may produce in support of his claim

Procedure as to perishable property seized under section 52

58. The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section 52 and subject to speedy and natural decay, and may deal with the proceeds as he would have dealt with such property if it had not been sold

Appeal from orders under section 55 section 56 or section 57

59. The officer who made the seizure under section 52, or any of his official superiors, or any person claiming to be interested in the property so seized, may, within one month from the date of any order passed under section 55, section 56 or section 57, appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final

Property when to vest in Government.

60. When in order for the confiscation of any property has been passed under section 55 or section 57, as the case may be, and the period limited by section 59 for an appeal from such order has elapsed and no such appeal has been preferred, or when, on such an appeal being preferred, the Appellate Court confirms such order in respect of the whole or a portion of such property, such property or such portion thereof, as the case may be, shall vest in the Government free from all incumbrances

Saving of power to release property seized

61. Nothing hereinbefore contained shall be deemed to prevent any officer empowered in this behalf by the ~~Local~~ ^{Forest} Government from directing at any time the immediate release of any property seized under section 52

Punishment for wrongful seizure

62. Any Forest officer or Police officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both

Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary marks.

63. Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code—

(a) knowingly counterfeits upon any timber or standing tree a mark used by Forest officers to indicate that such timber or tree is the property of the Government

(Chapter IA —Penalties and Procedure)

or of some person, or that it may lawfully be cut or removed by some person; or

(b) alters, defaces or obliterates any such mark placed on a tree or on timber by or under the authority of a Forest-officer, or

(c) alters, moves, destroys or defaces any boundary-mark of any forest or waste-land to which the provisions of this Act are applied,

shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both

64. (1) Any Forest-officer or Police officer may, without orders from a Magistrate and without a warrant, arrest any person against whom a reasonable suspicion exists of his having been concerned in any forest-offence punishable with imprisonment for one month or upwards Power to arrest without warrant.

(2) Every officer making an arrest under this section shall, without unnecessary delay and subject to the provisions of this Act as to release on bond, take or send the person arrested before the Magistrate having jurisdiction in the case, or to the officer in charge of the nearest police station

(3) Nothing in this section shall be deemed to authorise such arrest for any act which is an offence under Chapter IV unless such act has been prohibited under clause (c) of section 30

65. Any Forest-officer of a rank not inferior to that of a Ranger, who or whose subordinate, has arrested any person under the provisions of section 64, may release such person on his executing a bond to appear, if and when so required, before the Magistrate having jurisdiction in the case, or before the officer in charge of the nearest police station Power to release on a bond a person arrested.

66. Every Forest-officer and Police-officer shall prevent, and may interfere for the purpose of preventing, the commission of any forest-offence Power to prevent commission of offence

1893. 67. The District Magistrate or any Magistrate of the first class specially empowered in this behalf by the ~~Local~~ Government may try summarily, under the Code of Criminal Procedure 1893, any forest-offence punishable with imprisonment for a term not exceeding six months, or fine not exceeding five hundred rupees, or both Power to try offences summarily.

68. (1) The ~~Provincial~~ Government may, by notification in the ~~Local~~ "Official Gazette, empower a Forest-officer— Power to empower

(a) to accept from any persons against whom a reasonable suspicion exists that he has committed any forest-

(Chapter IX — *Penalties and Procedure* Chapter X —
Cattle trespass)

offence, other than an offence specified in section 62 or section 63, a sum of money by way of compensation for the offence which such person is suspected to have committed, and

(b) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer

(2) On the payment of such sum of money, or such value, or both, as the case may be to such officer the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property

(3) A Forest officer shall not be empowered under this section unless, he is a Forest officer of a rank not inferior to that of a Ranger and is in receipt of a monthly salary amounting to at least one hundred rupees and the sum of money accepted as compensation under clause (a) of sub-section (1) shall in no case exceed the sum of fifty rupees

Presumption
that forest
produce
belongs to
Government.

69. When in any proceedings taken under this Act, or in consequence of anything done under this Act, a question arises as to whether any forest produce is the property of the Government such produce shall be presumed to be the property of the Government until the contrary is proved

CHAPTER X

CATTLE-TRESPASS

Cattle
trespass Act,
1871
to apply

70 Cattle trespassing in a reserved forest or in any portion of a protected forest which has been lawfully closed to grazing shall be deemed to be cattle doing damage to a public plantation within the meaning of section 11 of the Cattle-trespass Act, 1871, and may be seized and impounded as such by any Forest officer or Police-officer

Power to alter
fines fixed
under that
Act.

71. The ^{Provincial} Government may by notification in the local official Gazette direct that, in lieu of the fines fixed under section 12 of the Cattle-trespass Act, 1871, there shall be levied for each head of cattle impounded under section 70 of this Act such fines as it thinks fit, but not exceeding the following, that is to say

For each elephant	.. ten rupees
For each buffalo or camel	.. two rupees
For each horse, mare, gelding pony colt filly male bull bullock cow or heifer	.. one rupee
For each calf, ass p.g. ram ewe, sheep, lamb goat or kid	eight annas

(Chapter XI—Of Forest-officers. Chapter XII.—Subsidiary Rules.)

CHAPTER XI.

OF FOREST-OFFICERS.

72. (1) The ^{Prov.} Local Government may invest any Forest-officer with all or any of the following powers, that is to say:—

- (a) power to enter upon any land and to survey, demarcate and make a map of the same;
- (b) the powers of a Civil Court to compel the attendance of witnesses and the production of documents and material objects,
- (c) power to issue a search-warrant under the Code of Criminal Procedure, 1898; and
- (d) power to hold an inquiry into forest-offences, and, in the course of such inquiry, to receive and record evidence

(2) Any evidence recorded under clause (d) of sub-section (1) shall be admissible in any subsequent trial before a Magistrate, provided that it has been taken in the presence of the accused person

73. All Forest-officers shall be deemed to be public servants 1860. within the meaning of the Indian Penal Code

74. No suit shall lie against any public servant for anything done by him in good faith under this Act

75. Except with the permission in writing of the ^{Provincial} Local Government, no Forest-officer shall, as principal or agent, trade in timber or other forest-produce, or be or become interested in any lease of any forest or in any contract for working any forest, whether in or outside British India

CHAPTER XII

SUBSIDIARY RULES.

76. The ^{Provincial} Local Government may make rules—

- (a) to prescribe and limit the powers and duties of any Forest-officer under this Act,
- (b) to regulate the rewards to be paid to officers and informers out of the proceeds of fines and confiscation under this Act;
- (c) for the preservation, reproduction and disposal of trees and timber belonging to Government, but grown on lands belonging to or in the occupation of private persons; and
- (d) generally, to carry out the provisions of this Act

77. Any person contravening any rule under this Act, for the contravention of which no special penalty is provided, shall be punishable with imprisonment for a term which may extend to one month, or fine which may extend to five hundred rupees, or both.

(Chapter XIII—Miscellaneous)

shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both

80. (1) If the Government and any person be jointly interested in any forest or waste-land or in the whole or any part of the produce thereof, the ^{Management of forests the joint property of Government and other persons} Government may either—

(a) undertake the management of such forest, waste land or produce, accounting to such person for his interest in the same or

(b) issue such regulations for the management of the forest waste land or produce by the person so jointly interested as it deems necessary for the management thereof and the interests of all parties therein

(2) When the Local Government undertakes under clause (a) of sub section (1) the management of any forest, waste land or produce it may, by notification in the ^{Local} official Gazette, declare that any of the provisions contained in Chapters II and IV shall apply to such forest, waste-land or produce and thereupon such provisions shall apply accordingly

81. If any person be entitled to a share in the produce of any forest which is the property of Government or over which the Government has proprietary rights or to any part of the forest produce of which the Government is entitled, upon the condition of duly performing any service connected with such forest such share shall be liable to confiscation in the event of the fact being established to the satisfaction of the ^{Failure to perform service for which a share in produce of Government for it is enjoyed} Government that such service is no longer so performed

Provided that no such share shall be confiscated until the person entitled thereto and the evidence if any, which may produce in proof of the due performance of such service have been heard by an officer duly appointed in that behalf by the Local Government

82. All money payable to the Government under this Act or under any rule made under this Act, or on account of the price of any forest-produce, or of expenses incurred in the execution of this Act in respect of such produce may, if not paid when due be recovered under the law for the time being in force as if it were an arrear of land revenue ^{Recovery of money due to Government}

83. (1) When any such money is payable for or in respect of any forest produce the amount thereof shall be deemed to be a first charge on such produce, and such produce may be taken possession of by a Forest officer until such amount has been paid ^{Lien on forest produce for such money}

(2) If such amount is not paid when due the Forest-officer may sell such produce by public auction and the proceeds of the sale shall be applied first in discharging such amount

(3) The surplus if any, if not claimed within two years from the date of the sale by the person entitled thereto shall be forfeited to his majesty

(Chapter XIII—Miscellaneous, 21c Schedule)

Land required under this Act to be deemed to be needed for a public purpose under the Land Acquisition Act 1894

84. Whenever it appears to the ^{Provincial} Local Government that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of section 4 of the Land Acquisition Act, 1894

Recovery of penalties due under bond

85. When any person in accordance with any provision of this Act or in compliance with any rule made thereunder, binds himself by any bond or instrument to perform any duty or act, or covenants by any bond or instrument that he or that he and his servants and agents will abstain from any act the whole sum mentioned in such bond or instrument as the amount to be paid in case of a breach of the conditions thereof may notwithstanding anything in section 74 of the Indian Contract Act 1872 be recovered from him in case of such breach as if it were an arrear of land revenue

Repeals

86. The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof

THE SCHEDULE

(See section 86)

ENACTMENTS REPEALED

	No	Short title	Extent of repeal
1	2	3	4
1878	VII	The Indian Forest Act 1878	So much as has not already been repealed
1890	V	The Forest Act 1890	Ditto
1891	XII	The Amendment Act 1891	So much of Part I of Schedule II as relates to the Indian Forest Act 1878
1901	V	The Indian Forest (Amendment) Act 1901	So much as has not already been repealed
1911	XV	The Indian Forest (Amendment) Act 1911	Ditto
1914	X	The Repealing and Amendment Act 1914	So much of the Second Schedule as relates to the Indian Forest Act 1878 the Indian Forest Act, 1890 and the Indian Forest (Amendment) Act 1901
1918			The whole
1920	...		So much of Schedule I Part I as relates to the Indian Forest Act 1878

PUNJAB FOREST (SALE OF TIMBER) ACT, 1913.

CONTENTS.

SECTIONS.

1. Short title, extent and commencement.
2. Meaning of terms.
3. Power to make rules regulating sale of timber and the establishment of sale depôts
4. Application of Chapter X of Indian Forest Act
5. Indemnity for acts done in good faith.

PUNJAB FOREST (SALE OF TIMBER) ACT, No. III OF 1913.

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.

CORRECTION SLIP NO. 95-P. L. A., DATED LAHORE, THE 8RD
SEPTEMBER, 1938.

Punjab Land Administration Acts, Volume I.

Punjab Forest (Sale of Timber) Act, III of 1913.

Sections 1 and 3 (1), page 3.

For the words "Local Government" substitute the words The Govern-
ment of India
"Provincial Government" wherever they occur (Adapta-
tion of Indian Laws)
Order, 1937.

FINANCIAL COMMISSIONERS OFFICE, PUNJAB

CORRECTION SLIP NO 96 P. L. A. DATED LAHORE THE 3RD
SEPTEMBER, 1938.

Punjab Land Administration Acts, Volume I

Punjab Forest (Sale of Timber) Act, III of 1913

Sections 1 and 3 (1), page 3.

For the words "Local Official Gazette" substitute the words The Govern-
ment of India
"Official Gazette." (Adapta-
tion of Indian Laws)
Order, 1937.

Police officer authorized in this behalf by the District Forest Officer or by the District Superintendent of Police, respectively,

- (f) prescribe as penalties for the infringement of any rule made under this section imprisonment which may extend to six months or fine which may extend to Rs 500 or both. Double penalties may be imposed where the offence is committed after sunset and before sunrise, or after preparation for resistance to lawful authority or if the offender has been previously convicted of a like offence.

(2) All rules made under sub-section (1) shall be so notified after previous publication in the ~~Gazette~~ *Official Gazette*.

Application
of Chapter X
of Indian
Forest Act

4 The provisions of Chapter X of the Indian Forest Act 1878* with the exception of section 67 shall apply so far as they relate to any infringement of the rules made under this Act as if such infringement were a forest offence under the Indian Forest Act.

Indemnity
for acts done
in good
faith.

5 No suit shall lie against any public servant for anything done by him in good faith under this Act.

* See now the Indian Forest Act 1927 (XVI of 1927) Chapter IX with the exception of section 58.

THE PUNJAB LAND PRESERVATION (CHOS) ACT, 1900.

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PRELIMINARY

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GENERAL DEFINITIONS

- 2 Definitions

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- 3 Notification of areas

- 4 Power to regulate, restrict or prohibit, by general or special order, within notified areas, certain matters

- 5 Power, in certain cases, to regulate, restrict or prohibit, by special order, within notified areas, certain further matters

- 6 Necessity for regulation, restriction or prohibition to be recited in the order under section 4 or 5 Publication of order

- 7 Proclamation of regulations, restrictions and prohibitions and admission of claims for compensation for rights which are restricted or extinguished

CONTROL OVER THE BEDS OF CHOS

- 8 Action when Local Government considers it desirable to take measures to regulate the beds of chos Vesting of such beds in the Government

- 9 Effect of notification to suspend or extinguish private rights in the area notified under section 8

- 10 Power of Deputy Commissioner to delimit the bed and to decide what constitutes such bed Power to take possession of bed when vested in the Government

- 11 Bar of compensation for acts done under sections 8, 9, or 10

- 12 Cancelled

POWER TO ENTER UPON AND DELIMIT NOTIFIED AREAS AND BEDS

- 13 Power to enter upon, survey and demarcate local areas notified under section 3 or section 8

INQUIRY INTO CLAIMS AND AWARD OF COMPENSATION

- 14 Inquiries into claims and awards thereupon

- 15 Method of awarding compensation and effect of such award

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- 16 Record of-rights in respect of notified areas
 - 17 Mode of proclaiming notifications and of serving notices, orders and processes, issued under the Act
 - 18 Appeal, review and revision
- PENALTIES, BAR OF SUITS AND RULES
- 19 Penalty for offences
 - 20 Application of provisions of Act VII of 1878
 - 21 Bar of suits
 - 22 Power to make rules

PUNJAB LAND PRESERVATION (CHOS) ACT No. II OF 1900.

PASSED BY THE LIEUTENANT-GOVERNOR OF THE PUNJAB IN COUNCIL
(Received the assent of His Honour the Lieutenant Governor on the 28th August, 1900, and that of His Excellency the Viceroy and Governor General on the 10th October, 1900, the Governor-General's assent was first published in the "Punjab Government Gazette" of the 15th November, 1900)

As amended by—

PUNJAB ACT IV OF 1905

PUNJAB ACT VII OF 1926

PUNJAB ACT VIII OF 1926

AN ACT TO PROVIDE FOR THE BETTER PRESERVATION AND PROTECTION OF CERTAIN PORTIONS OF THE TERRITORIES OF THE PUNJAB SITUATE WITHIN OR ADJACENT TO THE SIWALIK MOUNTAIN RANGE

WHEREAS it is expedient to provide for the better preservation and protection of certain portions of the territories of the Punjab situate within or adjacent to the *Siwalik* mountain range or affected or liable to be affected by the debodement of forests within that range, or by the action of streams and torrents, such as are commonly called *chos*, flowing through or from it,

It is hereby enacted as follows —

PRELIMINARY

1. (1) This Act may be called the Punjab Land Preservation (*Chos*) Act, 1900, and

Short title
and com-
mencement

(2) It shall come into force at once

GENERAL DEFINITIONS

2 In this Act, unless a different intention appears from the subject or context,—

- (a) the expression "land" means land within any local area preserved and protected or otherwise dealt with in manner in this Act provided, and includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth, Definitions
- (b) the expression "cho" means a stream or torrent flowing through or from the *Siwalik* mountain range within the Punjab;
- (c) the expressions "tree," "timber," "forest-produce" and "cattle," respectively, shall have the meanings severally assigned thereto in section 2 of the Indian Forest Act, 1878.*

1878

* See now the Indian Forest Act 1907 (XVI of 1907) section 2

(d) the expression "person interested" includes all persons claiming any interest in compensation to be made on account of any measures taken under this Act, and

Provincially (e) the expression "Deputy Commissioner" includes any officer or officers at any time specially appointed by the ~~Local~~ Government to perform the functions of a Deputy Commissioner under this Act

NOTIFICATION AND REGULATION OF AREAS

Notification
of areas

3. Whenever it appears to the *Provincial* ~~Local~~ Government that it is desirable to provide for the better preservation and protection of any local area situate within or adjacent to the *Sirauli* Mountain range or affected or liable to be affected by the debodement of forests in that range or by the action of *chos* such Government may by notification, make a direction accordingly

Power to
regulate
restrict or
prohibit by
general or
special order
within notifi-
ed areas
certain
matters

4. In respect of areas notified under section 3, generally, or the whole or any part of any such area the *Provincial* ~~Local~~ Government may, by general or special order temporarily regulate restrict or prohibit—

- (a) the clearing or breaking up or cultivating of land not ordinarily under cultivation prior to the publication of the notification under section 3
- (b) the quarrying of stone or the burning of lime at places where such stone or lime had not ordinarily been so quarried or burnt prior to the publication of the notification under section 3
- (c) the cutting of trees or timber, or the collection or removal or subjection to any manufacturing process otherwise than as described in clause (b) of this subsection of any forest produce other than grass ~~and~~ for *bond fide* domestic or agricultural purposes
- (d) the setting on fire of trees, timber or forest produce
- (e) the admission, herding, pasturing or retention of sheep or goats,
- (f) the examination of forest produce passing out of any such area and
- (g) the granting of permits to the inhabitants of towns and villages situate within the limits or in the vicinity of any such area to take any tree, timber or forest-produce for their own use therefrom or to pasture sheep or goats or to cultivate or erect buildings therein and the production and return of such permits by such persons

5. In respect of any specified village or villages, or part or parts thereof, comprised within the limits of any area notified under section 3 the ^{Provincial} Local Government may, by special order, temporarily regulate, restrict or prohibit—

- (a) the cultivating of any land ordinarily under cultivation prior to the publication of the notification under section 3;
- (b) the quarrying of any stone or the burning of any lime at places where such stone or lime had ordinarily been so quarried or burnt prior to the publication of the notification under section 3,
- (c) the cutting of trees or timber, or the collection or removal or subjection to any manufacturing process, otherwise than as described in clause (b) of this subsection, of any forest produce* [for any purposes], and
- (d) the admission, herding, pasturing or retention of cattle generally, other than sheep and goats or of any class or description of such cattle

6. Every order made under section 4 or section 5 shall be published in the ^{Official} Gazette and shall set forth that the ^{Provincial} Local Government is satisfied, after due inquiry, that the regulations, restrictions or prohibitions contained in the order are necessary for the purpose of giving effect to the provisions of this Act

7. (1) When, in respect of any local area, a notification has been published under section 3, and—

(a) upon such publication any general order made under section 4 becomes applicable to such area or

(b) any special order under section 4 or section 5, is made

Power, in certain cases, to regulate, restrict or prohibit, by special order, within notified areas, certain further matters

Necessity for regulation, restriction or prohibition to be recited in the order under section 4 or 5. Publication of order

Proclamation of regulations restrictions and prohibitions and admission of claims for compensation for rights which are restricted or extinguished

stricted or prohibited, within such period, either to present to such officer a written notice specifying, or to appear before him and state, the nature and extent of such right and the amount and particulars of the compensation (if any) claimed in respect thereof

(2) Any claim not preferred within the time fixed in the proclamation made under sub section (1), shall be rejected

Provided that, with the previous sanction of the Commissioner, the Deputy Commissioner may admit any such claim as if it had been made within such period

CONTROL OVER THE BEDS OF CHOS

Action when
Local Gov
ernment con
siders it desir
able to take
measures to
regulate the
beds of chos
vesting of
such heads
in the Gov
ernment

8 (1) Whenever it appears to the Local Government that it is desirable that measures should be taken in the bed of any *cho* for the purpose of—

- (a) regulating the flow of water within and preventing the widening or extension of such bed or of
- (b) reclaiming or protecting any land situate within the limits of such bed

such Government may, either proceed at once in manner in sub section (2) provided, or in the first instance, by notification specifying the nature and extent of the measures to be taken and the locality in and the time within which such measures are to be so taken require all persons possessing proprietary or occupancy rights in land situate in such locality to themselves carry out the measures specified in such notification accordingly

(2) If the whole or any part of the bed of any *cho* be unclaimed, or, if in the opinion of the Local Government the measures deemed necessary under sub-section (1) are of such a character, in regard to extent and cost that the interference of the Local Government is absolutely necessary, or in the event of the owner or occupier of any portion of the bed of any *cho* failing to comply with the requirements of any notification issued under sub section (1) such Government may by notification declare that the whole or any part of the area comprised within the limits of the bed of any *cho* shall vest in the Government for such period and subject to such conditions (if any) as may be specified in the notification

Provided that no such declaration shall be made in respect of or shall affect any land included within the limits of the bed of any such *cho* which at the date of the publication of the notification making such declaration is cultivated or culturable or yields any produce of substantial value

(3) When the owners or occupiers of such locality are unable to agree among themselves regarding the carrying out of such measures the decision of those paying the larger amount of land revenue shall be held to be binding on all

(4) The Local Government may from time to time, by like notification, extend the period during which any such area shall remain vested in the ~~Government~~ *His Majesty*.

9. Upon the making of any declaration under sub-section (2) of section 8, all private rights of whatever kind existing in or relating to any land comprised within the area specified in the notification containing such declaration at the time of the publication thereof, shall—

Effect of notification to suspend or extinguish private rights in the area notified under section 8

“be suspended for the period specified in the declaration and for such further period (if any) to which such period may at any time be extended,”

Provided that, as far as circumstances admit, such rights of way and water shall be reserved, in respect of every such area, as may be necessary to meet the reasonable requirements and convenience of the persons (if any) who at the time of the making of such declaration, possessed any such rights over such area

10 (1) The Deputy Commissioner shall, for the purposes of every notification issued under sub section (2) of section 8, fix the limits of the area comprised within the bed of the *cho* to which such notification is to apply

Power of Deputy Commissioner to delimit the bed and to decide what constitutes such bed. Power to take possession of bed when vested in the Government

(2) Upon the publication of a notification containing any declaration under sub section (2) of section 8, it shall be lawful for the Deputy Commissioner to—

(a) take possession of the area specified in such declaration,

(b) eject all persons therefrom, and to

(c) deal with such area, while it remains vested in the ~~Government~~ *His Majesty*, as if it were the absolute property of Government *His Majesty*

11. No person shall be entitled to any compensation for anything at any time done, in good faith, in exercise of any power conferred by section 8, section 9 or section 10

Bar of compensation for acts done under section 8, 9 or 10

12 Canceled by Punjab Act VIII of 1926 section 4

POWER TO ENTER UPON AND DELIMIT NOTIFIED AREAS AND BEDS

13. It shall be lawful for the Deputy Commissioner and for his subordinate officers, servants, caretakers and workmen, from time to time, as occasion may require—

Power to enter upon, survey and demarcate local areas notified under section 3 or section 8

(a) to enter upon and survey any land comprised within any local area in regard to which any notification has been issued under section 3 or section 8,

(i) to erect bench marks on and to delimit and demarcate the boundaries of any such local area, and

(c) to do all other acts and things which may be necessary in order adequately to preserve or protect any land or to give effect to all or any of the provisions of this Act

tricted or prohibited, within such period, either to present to such officer a written notice specifying, or to appear before him and state, the nature and extent of such right and the amount and particulars of the compensation (if any) claimed in respect thereof

(2) Any claim not preferred within the time fixed in the proclamation made under sub-section (1), shall be rejected

Provided that, with the previous sanction of the Commissioner, the Deputy Commissioner may admit any such claim as if it had been made within such period

CONTROL OVER THE BEDS OF CHOS

Action when Local Government considers it desirable to take measures to regulate the beds of chos Vesting of such beds in the Government.

8. (1) Whenever it appears to the Local Government that it is desirable that measures should be taken in the bed of any *cho* for the purpose of—

(a) regulating the flow of water within and preventing the widening or extension of such bed or of

(b) reclaiming or protecting any land situate within the limits of such bed

such Government may, either proceed at once in manner in sub section (2) provided, or, in the first instance, by notification specifying the nature and extent of the measures to be taken and the locality in and the time within which such measures are to be so taken, require all persons possessing proprietary or occupancy rights in land situate in such locality to themselves carry out the measures specified in such notification accordingly

(2) If the whole or any part of the bed of any *cho* be unclaimed, or, if, in the opinion of the Local Government the measures deemed necessary under sub section (1) are of such a character, in regard to extent and cost that the interference of the Local Government is absolutely necessary or in the event of the owner or occupier of any portion of the bed of any *cho* failing to comply with the requirements of any notification issued under sub section (1), such Government may, by notification declare that the whole or any part of the *cho* shall vest in the Government and subject to such conditions as may be specified in the notification

Provided that no such declaration shall be made in respect of or shall affect any land included within the limits of the bed of any such *cho* which at the date of the publication of the notification making such declaration, is cultivated or culturable or yields any produce of substantial value

(3) When the owners or occupiers of such locality are unable to agree among themselves regarding the carrying out of such measures the decision of those paying the larger amount of land revenue shall be held to be binding on all

every notification issued under sub-section (2) of section 8, fix the limits of the area comprised within the bed of the channel to which such notification is to apply.

(2) Upon the publication of a notification containing any declaration under sub-section (2) of section 8, it shall be lawful for the Deputy Commissioner to—

- (a) take possession of the area specified in such declaration.
- (b) eject all persons therefrom; and to
- (c) deal with such area, while it remains vested in the Government, as if it were the absolute property of Government. *His Majesty.*

11. No person shall be entitled to any compensation for anything at any time done, in good faith, in exercise of any power conferred by section 8, section 9 or section 10.

Bar of compensation for acts done under section 8, 9 or 10

12. Canceled by Punjab Act VIII of 1926, section 1

POWER TO ENTER UPON AND DELIMIT NOTIFIED AREAS AND BEDS.

13. It shall be lawful for the Deputy Commissioner and for his subordinate officers, servants, care-takers and workmen, from time to time, as occasion may require—

Power to enter upon, survey and demarcate local areas notified under section 8.

- (a) to enter upon and survey any land comprised within any local area in regard to which any notification has been issued under section 3 or section 8;
- (b) to erect bench-marks on and to delimit and demarcate the boundaries of any such local area; and
- (c) to do all other acts and things which may be necessary in order adequately to preserve or protect any land or to give effect to all or any of the provisions of this Act;

Provided that reasonable compensation to be assessed and determined in the manner in this Act provided, shall be made in respect of any damage or injury caused to the property or rights of any person 1 under the provisions of this section, be payable in respect of anything done thin the limits of any local area notified under section 8

INQUIRY INTO CLAIMS AND AWARD OF COMPENSATION

Inquiries into claims and awards there upon

14 (1) The Deputy Commissioner shall—

- (a) fix a date for inquiry into all claims made under section 7 and may, in his discretion from time to time, adjourn the inquiry to a date to be fixed by him, Punjab VIII
- (b) record in writing all statements made under section 7,
- (c) inquire into all claims duly preferred under section 7, Punjab VIII and
- (d) make an award upon each such claim, setting out there in the nature and extent of the right claimed, the person or persons making such claim the extent (if any) to which, and the person or persons in whose favour the right claimed is established the extent to which it is to be restricted or *prohibited* and the nature and amount of the compensation (if any) awarded Punjab VIII

(2) For the purposes of every such enquiry the Deputy Commissioner may exercise all or any of the powers of a Civil Court in the trial of suits under the Code of Civil Procedure * XIV

(3) The Deputy Commissioner shall announce his award to such persons interested, or their representatives as are present, and shall record the acceptance of those who accept it. To such as are not present the Deputy Commissioner shall cause immediate notice of his award to be given

Method of awarding compensation and effect of such award

15. (1) In determining the amount of compensation, the Deputy Commissioner shall be guided, so far as may be, by the provisions of sections 23 and 24 of the Land Acquisition Act 1894 I of 1 and as to matters which cannot be dealt with under those provisions by what is just and reasonable in the circumstances of each case

Provincially

(2) The Deputy Commissioner may, with the sanction of the Local Government and the consent of the person entitled instead of money, award compensation in land or by reduction in revenue or in any other form

(3) If, in any case the exercise of any right is prohibited for a time only compensation shall be awarded only in respect of the period during which the exercise of such right is so prohibited

(4) Repealed by section 6 of Punjab Act VIII of 1926

awarded as to the apportionment or distribution thereof amongst such persons or any of them

PENALTIES, BAR OF SUITS AND RULES

19. Any person who, within the limits of any local area notified under section 3, commits any breach of any regulation made, or restriction or prohibition imposed under section 4 or section 5, shall be punished with imprisonment for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both

20. The provisions of sections 52 53 54 55 56 57 58 59, 60, 61, 63 (excluding the last sentence) 64 65 66, 67 and 72 of the Indian Forests Act, 1878 * shall so far as applicable, be read as part of this Act, and, for the purposes of those provisions, every offence punishable under section 19 shall be deemed to be a "forest offence," and every officer employed in the management of any area notified under section 3 or section 8, as care taker or otherwise, shall be deemed to be a Forest-officer

Penalty for offences

Application of provisions of Act VII of 1878

* See now sections 52 54 55, 56 57 58 59 60 61, 62 64 (excluding the last sentence) 66 67, 68 and 73 of the Indian Forest Act 1927 (XVI of 1927)

Bar of suits

21. No suit shall lie against the ~~Secretary of State for India in Council, or the Government,~~ ^{The Crown} for anything done under this Act, and no suit shall lie against any public servant for anything done, or purporting to have been done, by him, in good faith, under this Act

Power to make rules

22 (1) The ~~Local~~ ^{Provincial} Government may make rules, consistent with this Act—

(a) regulating the procedure to be observed in any inquiry or proceeding under this Act, and

(b) generally for the purpose of carrying into effect all or any of the provisions of this Act

(2) All rules made under this section shall be published in the Gazette

THE NORTHERN INDIA CANAL AND DRAINAGE ACT, 1873.

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ACT No. VIII OF 1873.

PASSED BY THE GOVERNMENT OF PUNJAB IN 1873.

(Received the assent of the Governor-General on the
11th February 1873.)

As amended by—

Act XII of 1873.

Act XVI of 1874.

Act XVI of 1887;

Act XII of 1891.

Act XVI of 1899.

Act IV of 1914;

Act XXXVIII of 1920.

AN ACT TO REGULATE IRRIGATION, NAVIGATION
AND DRAINAGE IN NORTHERN INDIA

WHEREAS, throughout the territories to which this Act extends, ^{Preamble}
the Government is entitled to use and control for public
purposes the water of all rivers and streams flowing in natural
channels, and of all lakes and other natural collections of still
water; and whereas it is expedient to amend the law relating to
~~the said territories~~ ^{It is}

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.

CORRECTION SLIP NO. 99-P.L.A., DATED LAHORE, THE 6TH SEPTEMBER,
1938.

The Punjab Land Administration Acts, Volume I.

The Northern India Canal and Drainage Act, 1873.

Page 5.

For the words "Government", "the Government" and "the Local Government" wherever they occur, except in sections 52 and 54 of the Act, ^{The Government of India (Adaptation of Indian Laws) Order, 1937.} substitute the words "the Provincial Government".

Section 1.—For the words "for the time being" substitute the words "which on the 11th February, 1873 were".

(b) all works, embankments, structures, supply and escape-channels connected with such canals, channels or reservoirs;

(c) all water-courses as defined in the second clause of this section;

(d) any part of a river, stream, lake or natural collection of water, or natural drainage-channel, to which the Local Government has applied the provisions of Part II of this Act,

"Water-course"

(2) "Water-course" means any channel which is supplied with water from a canal, but which is not maintained at the cost of Government, and all subsidiary works belonging to any such channel,

"Drainage-work."

(3) "Drainage-work" includes escape-channels from a canal, dams, weirs, embankments, sluices, groins and other works for the protection of lands from flood or from erosion, formed or maintained by the Government under the provisions of Part VII of this Act, but does not include works for the removal of sewage from towns,

"Vessel."

(4) "Vessel" includes boats, rafts, timber and other floating bodies,

"Commissioner."

(5) "Commissioner" means a Commissioner of a Division, and includes any officer appointed under this Act to exercise all or any of the powers of a Commissioner;

"Collector."

(6) "Collector" means the head Revenue Officer of a district, and includes a Deputy Commissioner or other officer appointed under this Act to exercise all or any of the powers of a Collector;

"Canal Officer."

(7) "Canal Officer" means an officer appointed under this Act to exercise control or jurisdiction over a canal or any part thereof;

"Superintending Canal Officer" means an officer exercising general control over a canal or portion of a canal;

"Divisional Canal Officer" means an officer exercising control over a Division of a canal;

"Sub-Divisional Canal Officer" means an officer exercising control over a sub-division of a canal

"District."

(8) "District" means a district as fixed for revenue purposes.

Power to appoint officers.

4. The Local Government may from time to time declare, by notification in the official Gazette, the officers by whom, and the local limits within which, all or any of the powers or duties hereinafter conferred or imposed shall be exercised or performed.

All officers mentioned in section three, clause (7), shall be respectively subject to the orders of such officers as the Local Government from time to time directs

- 8 No compensation shall be awarded for any damage caused
- 13—
- (a) stoppage or diminution of percolation or floods,
 - (b) deterioration of climate or soil
 - (c) stoppage of navigation, or of the means of drifting timber or watering cattle,
 - (d) displacement of labour,
- Damage for which compensation shall not be awarded

But compensation may be awarded in respect of any of the following matters —

Matters in respect of which compensation may be awarded

- (e) stoppage or diminution of supply of water through any natural channel to any defined artificial channel whether above or under ground in use at the date of the said notification,
- (f) stoppage or diminution of supply of water to any well erected for purposes of profit on any channel whether natural or artificial, in use at the date of the said notification
- (g) stoppage or diminution of supply of water through any natural channel which has been used for purposes of irrigation within the five years next before the date of the said notification,
- (h) damage done in respect of any right to a water course or the use of any water to which any person is entitled under the Indian Limitation Act 1877 Part IV *

* See now the Indian Limitation Act 1908 (IX of 1908)

(e) any other substantial damage, not falling under any of the above clauses (a), (b), (c), or (d), and caused by the exercise of the powers conferred by this Act, which is capable of being ascertained and estimated at the time of awarding such compensation

In determining the amount of such compensation, regard shall be had to the diminution in the market value, at the time of awarding compensation, of the property in respect of which compensation is claimed and where such market value is not ascertainable the amount shall be reckoned at twelve times the amount of the diminution of the annual net profits of such property caused by the exercise of the powers conferred by this Act

No right to any such supply of water as is referred to in clauses (e), (f) or (g) of this section in respect of a work or channel not in use at the date of the notification shall be acquired as against the Government, except by grant or under the Indian Limitation Act 1877 Part IV *

And no right to any of the advantages referred to in clauses (a) (b) and (c) of this section shall be acquired as against the Government under the same Part

Limitation of claims

9. No claim for compensation for any such stoppage diminution or damage shall be made after the expiration of one year from such stoppage diminution or damage unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period

Enquiry into claims and amount of compensation

10. The Collector shall proceed to enquire into any such claim, and to determine the amount of compensation if any which should be given to the claimant, and sections nine to twelve (inclusive) fourteen and fifteen eighteen to twenty-three (inclusive), twenty six to forty (inclusive) fifty-one, fifty seven fifty eight and fifty nine of the Land Acquisition Act 1870,† shall apply to such enquiries

Provided that instead of the last clause of the said section twenty six the following shall be read "The provisions of this section and of section eight of the Northern India Canal and Drainage Act 1873 shall be read to every assessor in a language in which he understands before he gives his opinion as to the amount of compensation to be awarded "

Abatement of rent on interruption of water supply.

11. Every tenant holding under an unexpired lease or having a right of occupancy who is in occupation of any land at the time when any stoppage or diminution of water supply, in respect of which compensation is allowed under section eight takes place may claim an abatement of the rent previously payable by him for the said land on the ground that the interruption reduces the value of the holding

* See now the Indian Limitation Act 1908 (IX of 1908)

† See now the Land Acquisition Act 1894 (I of 1894)

OF THE CONSTRUCTION AND MAINTENANCE OF WORKS

14. Any Canal Officer or other person acting under the general or special order of a Canal Officer Power to enter and survey, &c.
may enter upon any lands adjacent to any canal or through which any canal is proposed to be made and undertake surveys or levels thereon.

and dig and bore into the sub-soil,

and make and set up suitable land-marks, level-marks, and water gauges,

and do all other acts necessary for the proper prosecution of any enquiry relating to any existing or projected canal under the charge of the said Canal Officer;

and, where otherwise such enquiry cannot be completed, such officer or other person may cut down and clear away any part of any standing crop, fence or jungle, Power to clear land.

and may also enter upon any land, building or water-course on account of which any water-rate is chargeable, for the purpose of inspecting or regulating the use of the water supplied or of measuring the lands irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of such canal; Power to inspect and regulate water supply.

Provided that, if such Canal Officer or person proposes to enter into any building or enclosed court or garden attached to a dwelling house not supplied with water flowing from any canal, he shall previously give the occupier of such building, court or garden at least seven days' notice in writing of his intention to do so Notice of intended entry into houses.

In every case of entry under this section, the Canal Officer shall, at the time of such entry, tender compensation for any damage which may be occasioned by any proceeding under this Compensation for damage caused by entry.

shall determine whether and on what conditions the said supply shall be conveyed through such water-course.

When such officer determines that a supply of canal-water may be conveyed through any water-course as aforesaid, his decision shall, when confirmed or modified by the Superintending Canal Officer, be binding on the applicant and also on the persons responsible for the maintenance of the said water-course.

Such applicant shall not be entitled to use such water-course until he has paid the expense of any alteration of such water-course necessary in order to his being supplied through it, and also such share of the first cost of such water-course as the Divisional or Superintending Canal Officer may determine

Such applicant shall also be liable for his share of the cost of maintenance of such water-course so long as he uses it.

Application
for construction
of new
water-course.

21. Any person desiring the construction of a new water-course may apply in writing to the Divisional Canal Officer, stating—

- (1) that he has endeavoured unsuccessfully to acquire, from the owners of the land through which he desires such water-course to pass, a right to occupy so much of the land as will be needed for such water-course;
- (2) that he desires the said Canal Officer, in his behalf and at his cost, to do all things necessary for acquiring such right,
- (3) that he is able to defray all costs involved in acquiring such right and constructing such water-course

22. If the Divisional Canal Officer considers—

- (1) that the construction of such water course is expedient and
- (2) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Divisional Canal Officer considers necessary to defray the cost of the preliminary proceedings, and the amount of any compensation which he considers likely to become due under section twenty-eight;

and, upon such deposit being made, he shall cause enquiry to be made into the most suitable alignment for the said water-course, and shall mark out the land which, in his opinion, it will be necessary to occupy for the construction thereof, and shall forthwith publish a notice in every village through which the water-course is proposed to be taken, that so much of such land as belongs to such village has been so marked out, and shall send a copy of such notice to the Collector of every district in which any part of such land is situate.

Procedure of
Canal Officer
thereupon.

Divisional Canal Officer considers necessary to defray the cost of the preliminary proceedings and the amount of any compensation that may become due under the provisions of section twenty eight in respect of such transfer,

and, upon such deposit being made, he shall publish a notice of the application in every village and shall send a copy of the notice to the Collector of every district through which such water course passes

24. Within thirty days from the publication of a notice under section twenty two or section twenty three as the case may be, any person interested in the land or water course to which the notice refers may apply to the Collector by petition, stating his objection to the construction or transfer for which application has been made

Objections to construction or transfer applied for

The Collector may either reject the petition or may proceed to inquire into the validity of the objection, giving previous notice to the Divisional Canal Officer of the place and time at which such enquiry will be held

The Collector shall record in writing all orders passed by him under this section and the grounds thereof

25. If no such objection is made or (where such objection is made) if the Collector overrules it he shall give notice to the Divisional Canal Officer to that effect and shall proceed forthwith to place the said applicant in occupation of the land marked out or of the water course to be transferred as the case may be

When applicant may be placed in occupation

26. If the Collector considers any objection made as aforesaid to be valid he shall inform the Divisional Canal Officer accordingly and if such officer sees fit he may in the case of an application under section twenty one alter the boundaries of the land so marked out and may give fresh notice under section twenty two, and the procedure hereinbefore provided shall be applicable to

Procedure when objection is held valid

such notice, and the Collector shall thereupon proceed as before provided

Procedure]
when Canal
Officer &
agrees with
Collector

27. If the Canal Officer disagrees with the Collector, the matter shall be referred for decision to the Commissioner

Such decision shall be final, and the Collector, if he is so directed by such decision, shall subject to the provisions of section twenty-eight, cause the said applicant to be placed in occupation of the land so marked out or of the water course to be transferred, as the case may be

Expenses to
be paid by
applicant
before
receiving
occupation

28. No such applicant shall be placed in occupation of such land or water-course until he has paid to the person named by the Collector such amount as the Collector determines to be due as compensation for the land or water course so occupied or transferred, and for any damage caused by the marking out or occupation of such land together with all expenses incidental to such occupation or transfer

Procedure in
fixing
compensation

In determining the compensation to be made under this section, the Collector shall proceed under the provisions of the Land Acquisition Act 1870 * but he may if the person to be compensated so desires award such compensation in the form of a rent-charge payable in respect of the land or water-course occupied or transferred

Recovery of
compensation
and expenses

If such compensation and expenses are not paid when demanded by the person entitled to receive the same the amount may be recovered by the Collector as if it were an arrear of land revenue and shall when recovered be paid by him to the person entitled to receive the same

Conditions
binding on
applicant
placed in
occupation

29. When any such applicant is placed in occupation of land or of a water course as aforesaid the following rules and conditions shall be binding on him and his representative in interest —

First —All works necessary for the passage across such water-course, or water-courses existing previous to its construction and of the drainage intercepted by it and for affording proper communications across it for the convenience of the neighbouring lands shall be constructed by the applicant and be maintained by him or his representative in interest to the satisfaction of the Divisional Canal Officer

Second —Land occupied for a water course under the provisions of section twenty-two shall be used only for the purpose of such water-course

Third —The proposed water course shall be completed to the satisfaction of the Divisional Canal Officer within one year after the applicant is placed in occupation of the land

In cases in which land is occupied or a water-course is transferred on the terms of a rent-charge

* See now the Land Acquisition Act 1894 (I of 1894)

whom it is due

If any of the rules and conditions prescribed by this section are not complied with,

or if any water-course constructed or transferred under this Act is disused for three years continuously,

the right of the applicant, or of his representative in interest, to occupy such land or water-course shall cease absolutely

30. The procedure hereinbefore provided for the occupation of land for the construction of a water-course shall be applicable to the occupation of land for any extension or alteration of a water-course, and for the deposit of soil from water-course clearances.

Procedure applicable to occupation for extensions and alterations

PART IV.

OF THE SUPPLY OF WATER

31. In the absence of a written contract or so far as any such contract does not extend every supply of canal water shall be deemed to be given at the rates and subject to the conditions prescribed by the rules to be made by the Local Government in respect thereof.

In absence of written contract water supply to be subject to rules

32. Such contracts and rules must be consistent with the following conditions:—

Conditions as to water-supply

(a) The Divisional Canal Officer may not stop the supply of water to any water-course, or to any person, except in the following cases:—

power to stop water-supply

(1) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by competent authority, and with the previous sanction of the Local Government;

(2) whenever and so long as any water course is not maintained in such proper customary repair as to prevent the wasteful escape of water therefrom,

(3) within periods fixed from time to time by the Divisional Canal Officer.

claims to compensation in case of failure or stoppage of supply

(b) No claim shall be made against the Government for compensation in respect of loss caused by the failure or stoppage of the water in a canal, by reason of any cause beyond the control of the Government, or of any repairs, alterations or additions to the canal, or of any measures taken for regulating the proper flow of water therein, or for maintaining the established course of irrigation which the Divisional Canal Officer considers necessary, but the person suffering such loss may claim such remission of the ordinary charges payable for the use of the water as is authorized by the Local Government

claims on account of interruption from other causes

(c) If the supply of water to any land irrigated from a canal be interrupted otherwise than in the manner described in the last preceding clause the occupier or owner of such land may present a petition for compensation to the Collector for any loss arising from such interruption and the Collector may award to the petitioner reasonable compensation for such loss

duration of supply

(d) When the water of a canal is supplied for the irrigation of a single crop, the permission to use such water shall be held to continue only until that crop comes to maturity and to apply only to that crop, but if it be supplied for irrigating two or more crops to be raised on the same land within the year, such permission shall be held to continue for one year from the commencement of the irrigation, and to apply to such crops only as are matured within that year

sale or subletting of right to use canal water

(e) Unless with the permission of the Superintending Canal Officer no person entitled to use the water of any canal or any work building or land appertaining to any canal, shall sell or sublet or otherwise transfer his right to such use provided that the former part of this clause shall not apply to the use by a cultivating tenant of water supplied by the owner of a water course for the irrigation of the land held by such tenant

transfer with land of contracts for water

But all contracts made between Government and the owner or occupier of any immovable property, as to the supply of canal water to such property shall be transferable therewith, and shall be presumed to have been so transferred whenever a transfer of such property takes place

no right acquired by user

(f) No right to the use of the water of a canal shall be, or be deemed to have been, acquired under the Indian Limitation Act, 1877 Part IV,* nor shall Government be bound to supply any person with water except in accordance with the terms of a contract in writing

* See now the Indian Limitation Act 1908 (IX of 1908)

PART V

OF WATER RATES.

33. If water supplied through a water-course be used in an unlawful or unauthorised manner, and if the person by whose act or neglect such use has occurred cannot be identified,

the person on whose land such water has flowed if such land has derived benefit therefrom,

or if such person cannot be identified, or if such land has not derived benefit therefrom, all the persons chargeable in respect of the water supplied through such water-course,

shall be liable, or jointly liable as the case may be to the charges made for such use.

34. If water supplied through a water-course be suffered to run to waste, and if, after enquiry by the Divisional Canal Officer, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, all the persons chargeable in respect of the water supplied through such water-course shall be jointly liable for the charges made in respect of the water so wasted.

35. All charges for the unauthorized use or for waste of water may be recovered in addition to any penalties incurred on account of such use or waste.

All questions under section thirty three or section thirty-four shall be decided by the Divisional Canal Officer, subject to an appeal to the Head Revenue Officer of the district or such other appeal as may be provided under act on seventy-five.

36. The rates to be charged for canal-water supplied for purposes of irrigation to the occupiers of land shall be determined by the rules to be made by the Local Government, and such occupiers as accept the water shall pay for it accordingly.

A rate so charged shall be called the 'occupier's rate'.

'Occupier's rate'

The rules hereinbefore referred to may prescribe and determine what persons or classes of persons are to be deemed to be occupiers for the purposes of this section, and may also determine the several liabilities, in respect of the payment of the occupier's rate, of tenants and of persons to whom tenants may have sub-let their lands or of proprietors and of persons to whom proprietors may have let the lands held by them in cultivating occupancy.

37. In addition to the occupier's rate, a rate to be called the 'owner's rate' may be imposed, according to rules to be made by the Local Government, on the owners of canal irrigated lands, in respect of the benefit which they derive from such irrigation.

'Owner's rate'

38. The owner's rate shall not exceed the sum which, under the rules for the time being in force for the assessment of land-revenue, might be assessed on such land, on account of the increase

Amount of owner's rate

in the annual value or produce thereof caused by the canal-irrigation. And for the purpose of this section only, land which is permanently settled or held free of revenue, shall be considered as though it were temporarily settled and liable to payment of revenue.

Owner's rate when not chargeable.

39. No owner's rate shall be chargeable either on the owner or occupier of land temporarily assessed to pay land-revenue at irrigation rates during the currency of such assessment.

40—43. [*Repealed by Act XVI of 1887 (The Punjab Tenancy Act)*]

Water rate by whom payable when charged on land held by several owners

44. Where a water-rate is charged on land held by several joint owners, it shall be payable by the manager or other person who receives the rents or profits of such land and may be deducted by him from such rents or profits before division, or may be recovered by him from the persons liable to such rate in the manner customary in the recovery of other charges on such rents or profits.

Recovery of Charges

Certified dues recoverable as land revenue

45. Any sum lawfully due under this Part, and certified by the Divisional Canal Officer to be so due which remains unpaid after the day on which it becomes due, shall be recoverable by the Collector from the person liable for the same as if it were an arrear of land revenue.

Power to contract for collection of canal-dues

46. The Divisional Canal Officer or the Collector may enter into an agreement with any person for the collection and payment to the Government by such person of any sum payable under this Act by a third party.

When such agreement has been made, such person may recover such sum by suit as though it were a debt due to him, or an arrear of rent due to him on account of the land, work or building in respect of which such sum is payable, or for or in which the canal-water shall have been supplied or used.

If such person makes default in the payment of any sum collected by him under this section, such sum may be recovered from him by the Collector under section forty-five, and if such sum or any part of it be still due by the said third party the sum or part so due may be recovered in like manner by the Collector from such third party.

Lambardars may be required to collect canal dues

47. The Collector may require the lambardar or person under engagement to pay the land revenue of any estate to collect and pay any sums payable under this Act by a third party, in respect of any land or water in such estate.

Such sums shall be recoverable by the Collector as if they were arrears of land revenue due in respect of the defaulter's share in such estate.

and for the purposes of collecting such sums from the subordinate lambardars, ryots, tenants or sub-tenants such lambardar or person may exercise the powers, and shall be subject to the rules

Procedure of recovery of such charges after seizure

53. Within a reasonable time after any seizure under sect on fifty one or section fifty-two the said Canal Officer shall give notice to the owner or person in charge of the property seized that it, or such portion of it as may be necessary, will, on a day to be named in the notice, but not sooner than fifteen days from the date of the notice be sold in satisfaction of the claim on account of which such property was seized, unless the claim be discharged before the day so named.

And if such claim be not so discharged, the said Canal Officer may, on such day, sell the property seized or such part thereof as may be necessary to yield the amount due, together with the expenses of such seizure and sale

Provided that no greater part of the furniture of any vessel or of any cargo or goods shall be so sold than shall, as nearly as may be, suffice to cover the amount due in respect of such vessel, cargo or goods

The residue of such furniture cargo or goods, and of the proceeds of the sale shall be made over to the owner or person in charge of the property seized

Procedure in respect of vessels abandoned and goods unclaimed

54. If any vessel be found abandoned in a canal, or any cargo or goods carried in a Government vessel on a canal, or stored on or in lands or warehouses occupied for the purposes of a canal, be left unclaimed for a period of two months, the Divisional Canal Officer may take possession of the same

The officer so taking possession may publish a notice that, such vessel, and its contents, or such cargo or goods, are not claimed previously to a day to be named in the notice, not sooner than thirty days from the date of such notice, he will sell the same, and, if such vessel, contents cargo or goods be not so claimed, he may, at any time after the day named in the notice proceed to sell the same

Disposal of proceeds of sale

The said vessel and its contents, and the said cargo or goods if unsold, or if a sale has taken place, the proceeds of the sale, after paying all tolls, charges and expenses incurred by the Divisional Canal Officer on account of the taking possession and sale, shall be made over to the owner of the same, when his ownership is established to the satisfaction of the Divisional Canal Officer

If the Divisional Canal Officer is doubtful to whom such property or proceeds should be made over, he may direct the property to be sold as aforesaid and the proceeds to be paid into the district treasury there to be held until the right thereto be decided by a Court of competent jurisdiction

PART VII OF DRAINAGE

Power to prohibit obstructions or order their removal

55. Whenever it appears to the Local Government that injury to any land or the public health or public convenience has arisen or may arise from the obstruction of any river stream or drainage channel, such Government may, by notification published in the

fixed in the order

If, within the time so fixed, such person does not comply with the order, the said Canal Officer may himself remove or modify the obstruction, and if the person to whom the order was issued does not when called upon pay the expenses involved in such removal or modification, such expenses shall be recoverable by the Collector from him or his representative in interest as an arrear of land-revenue.

57. Wherever it appears to the Local Government that any drainage-works are necessary for the improvement of any lands or for the proper cultivation or irrigation thereof Improvement of lands or for the proper cultivation or irrigation thereof

or that protection from floods or other accumulations of water or from erosion by a river, is required for any lands

the Local Government may cause a scheme for such drainage-works to be drawn up and published, together with an estimate of its cost and a statement of the proportion of such cost which the Government proposes to defray, and a schedule of the lands which it is proposed to make chargeable in respect of the scheme

58. The persons authorized by the Local Government to draw up such scheme may exercise all or any of the powers conferred on Canal Officers by section fourteen Powers conferred on Canal Officers by section fourteen

59. An annual rate, in respect of such scheme, may be charged, according to rules to be made by the Local Government, on the owners of all lands which shall, in the manner prescribed by such rules, be determined to be so chargeable Rate on lands benefited by works

Such rate shall be fixed as nearly as possible so as not to exceed either of the following limits:—

(1) Six per cent per annum on the first cost of the said works, adding thereto the estimated yearly cost of the maintenance and supervision of the same, and deducting therefrom the estimated income, if any, derived from the works, excluding the said rate.

(2) In the case of agricultural land the sum which, under the rules then in force for the assessment of land-revenue, might be assessed on such land on account of the increase of the annual value or produce thereof caused by the drainage-work

Such rate may be varied from time to time, within such maximum, by the Local Government

So far as any defect to be remedied is due to any canal, water-course, road or other work or obstruction, constructed or caused by the Local Government or by any person, a proportionate share of the cost of the drainage-works required for the remedy of the said defect, shall be borne by such Government or such person as the case may be

Recovery of
rate

60. Any such drainage-rate may be collected and recovered in manner provided by sections forty-five, forty-six and forty-seven for the collection and recovery of water-rates

Disposal of
claims to
compensation

61. Whenever, in pursuance of a notification made under section fifty-five, any obstruction is removed or modified,

or whenever any drainage work is carried out under section fifty-seven,

all claims for compensation on account of any loss consequent on the removal or modification of the said obstruction or the construction of such work may be made before the Collector, and he shall deal with the same in the manner provided in section ten

Limitation
of such
claims

62. No such claim shall be entertained after the expiration of one year from the occurrence of the loss complained of, unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period

PART VIII

OF OBTAINING LABOUR FOR CANALS AND DRAINAGE-WORKS

Definition of
"Labourer"

63. For the purposes referred to in this Part, the word "Labourer" includes persons who exercise any handicraft specified in rules to be made in that behalf by the Local Government

Power to
prescribe
number of
labourers to
be supplied
by persons
benefited by
canal

64. In any district in which a canal or drainage-work is constructed, maintained or projected by Government the Local Government may, if it thinks fit direct the Collector—

(a) to ascertain the proprietors, sub-proprietors or farmers whose villages or estates are or will be in the judgment of the Collector benefited by such canal or drainage-work, and

(b) to set down in a list having due regard to the circumstances of the district and of the several proprietors, sub-proprietors or farmers the number of labourers which shall be furnished by any of the said persons, jointly or severally, from any such village or estate for employment on any such canal or drainage-work when required as hereinafter provided

The Collector may, from time to time, add to or alter such list or any part thereof

- ...and at all state
- a) the nature and locality of the work to be done,
 - b) the number of labourers to be supplied by the person upon whom the requisition is made, and
 - c) the approximate time for which and the day on which the labourers will be required,

and a copy thereof shall be immediately sent to the Superintending Canal Officer for the information of the Local Government

The Local Government shall fix, and may from time to time alter, the rates to be paid to any such labourers. provided that such rates shall exceed the highest rates for the time being paid in the neighbourhood for similar work. In the case of every such labourer, the payment shall continue for the whole period during which he is, in consequence of the provisions of this Part, prevented from following his ordinary occupation

of 1914.

The Local Government may direct that the provisions of this Part shall apply, either permanently or temporarily (as the case may be), to any district or part of a district for the purpose of effecting necessary annual silt-clearances, or to prevent the proper operation of a canal or drainage-work being stopped or so much interfered with as to stop the established course of irrigation or drainage

66. When any requisition has been made on any person named in the said list, every labourer ordinarily resident within the village or estate of such person shall be liable to supply, and to continue to supply, his labour, for the purposes aforesaid. Liability of labourers under requisition

PART IX

OF JURISDICTION

67. Except where herein otherwise provided, all claims against Government in respect of anything done under this Act may be tried by the Civil Courts; but no such Court shall in any case pass an order as to the supply of canal-water to any crop sown or growing at the time of such order. Jurisdiction under this Act of Civil Courts

Settlement of
differences as
to mutual
rights and
liabilities of
persons inter-
ested in
water-course

68. Whenever a difference arises between two or more persons in regard to their mutual rights or liabilities in respect of the use, construction or maintenance of a water course, any such person may apply in writing to the Divisional Canal Officer stating the matter in dispute. Such officer shall thereupon give notice to the other persons interested that, on a day to be named in such notice, he will proceed to enquire into the said matter. And, after such enquiry, he shall pass his order thereon unless he transfers (as he is hereby empowered to do) the matter to the Collector, who shall thereupon enquire into and pass his orders on the said matter.

Such order shall be final as to the use or distribution of water for any crop sown or growing at the time when such order is made and shall thereafter remain in force until set aside by the decree of a Civil Court.

Power to
summon and
examine
witnesses

69. Any officer empowered under this Act to conduct any enquiry may exercise all such powers connected with the summoning and examining of witnesses as are conferred on Civil Courts by the Code of Civil Procedure,* and every such inquiry shall be deemed a judicial proceeding.

PART X

OF OFFENCES AND PENALTIES

Offences
under Act

70. Whoever without proper authority and voluntarily does any of the acts following, that is to say,—

- (1) damages, alters, enlarges or obstructs any canal or drainage work,
- (2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under, any canal or drainage-work,
- (3) interferes with or alters the flow of water in any river or stream, so as to endanger damage or render less useful any canal or drainage work,
- (4) being responsible for the maintenance of a water-course or using a water course neglects to take proper precautions for the prevention of waste of the water thereof, or interferes with the authorized distribution of the water therefrom, or uses such water in an unauthorized manner,
- (5) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;
- (6) causes any vessel to enter or navigate any canal contrary to the rules for the time being prescribed by the Local Government for entering or navigating such canal,

* See now Act V of 1908

- (7) while navigating on any canal, neglects to take proper precautions for the safety of the canal and of vessels thereon,
- (8) being liable to turn sh labourers under Part VIII of this Act, fails, without reasonable cause to supply or to assist in supplying the labourers required of him;
- (9) being a labourer liable to supply his labour under Part VIII of this Act, neglects, without reasonable cause, so to supply, and to continue to supply, his labour;
- (10) destroys or moves any level mark or water-gauge fixed by the authority of a public servant,
- (11) passes or causes animals or vehicles to pass, on or near any of the works, banks or channels of a canal or drainage work contrary to rules made under this Act after he has been desired to desist therefrom,
- (12) violates any rule made under this Act, for breach whereof a penalty may be incurred,

shall be liable, on conviction before a Magistrate of such class **Penalty** as the Local Government directs in this behalf, to a fine not exceeding fifty rupees, or to imprisonment not exceeding one month, or to both

71. Nothing herein contained shall prevent any person from **Saving of** being prosecuted under any other law for any offence punishable **prosecution** under this Act. Provided that no person shall be punished twice **under other laws.** for the same offence

72. Whenever any person is fined for an offence under this **Compensation to** Act the Magistrate may direct that the whole or any part of such **person** fine may be paid by way of compensation to the person injured by **injured,** such offence

73. Any person in charge of or employed upon any canal or **Power to** drainage-work, may remove from the lands or buildings belonging **arrest with-** thereto, or may take into custody without a warrant and take forth **out warrant.** with before a Magistrate or to the nearest police station, to be dealt with according to law, any person who within his view, commits any of the following offences —

- (a) wilfully damages or obstructs any canal or drainage-work,
- (2) without proper authority interferes with the supply or flow of water in or from any canal or drainage work, or in any river or stream, so as to endanger, damage or render less useful any canal or drainage-work

74. In this Part the word 'Canal' shall (unless there be **Definition of** something repugnant in the subject or context) be deemed to include **'Canal.'** also all lands occupied by Government for the purposes of canals and all buildings, machinery, fences gates and other erections, trees, crops plantations or other produce, occupied by or belonging to Government upon such lands

SECTIONS.

18. Application for transfer of existing water-course.
Procedure thereupon.
19. Inquiry into, and determination of, objections to construction or transfer of water-courses.
20. Expenses to be paid by applicant for construction or transfer of water-course before receiving occupation.
Procedure in fixing compensation
Recovery of compensation and expenses.
21. Conditions binding on applicant placed in occupation.
22. Construction of outlets from canals by Collector.
23. Power to convert several water-courses running for a long distance side by side into one water-course.
24. Procedure applicable to occupation for extensions and alterations.
25. Costs of executing works under section 22 or section 23. by whom payable.
26. Powers of Local Government to direct supply of labour by irrigators
27. Powers of Collector upon issue of notification under section 26.
28. Power to prepare record for canal.

WATER-RATES.

29. Levy of water-rates.
30. Liability when person using / / cannot be identified.
31. Liability when water runs to /
32. Charges recoverable in addition /

CHAPTER I

PROVISIONS APPLICABLE TO CANALS IN

33. This chapter applicable on /
34. Power of the Collector in / to /
35. Power of Local Government / to /
36. Power to assume control / canal.
37. Right of owner, upon / the canal shall be /
38. Power to acquire canal /

SECTIONS

- 39 Power to fix the limits of irrigation and water-rates and to regulate the distribution of water
- 40 Collection, in certain cases, of water-rates of a canal by the Local Government

CHAPTER V

PROVISIONS APPLICABLE TO ALL CANALS

- 41 This chapter applicable to all canals
- 42 Consent or decision of the owner how to be determined.
- 43 Settlement of disputes
- 44 Acquisition of land for canals
- 45 Power to acquire canal by consent or otherwise
- 46 Notice as to claims for compensation
- 47 Inquiry into claims
Limitation of claims
- 48 Vesting of canal in the Government
- 49 Power to regulate flow of water in rivers, creeks natural channels or lines of natural drainage and to prohibit therein or order removal therefrom of obstructions
- 50 Power to remove obstruction after publication of notification, and payment of compensation
- 51 Power of the Collector to regulate flow of water and prohibit or remove obstructions
- 52 Power as to the construction and maintenance of works in respect of canals under Schedule II
- 53 Power as to construction and maintenance of works in respect of canals under Schedule I
- 54 Power to take possession and to construct works in cases of emergency
- 55 Assessment of compensation
- 56 Compensation for right of user or in the form of a supply of water
- 57 Apportionment and recovery of the cost of land acquired or works executed
- 58 Power to regulate mills
- 59 Application of sections 13 to 16 of Land Revenue Act, 1887
- 60 Exclusion of jurisdiction of Civil Court except under Land Acquisition Act
- 61 Power to appoint officers to exercise functions under this Act
- 62 Powers of Collector in certain proceedings under the Act

SECTIONS,

63. Permission to owners and parties interested in any canal to object in certain cases.
64. Mode of serving notices and making proclamations.
65. Bar of compensation where not expressly allowed.
66. Protection of persons acting under the Act.
67. Government to be party to certain suits and proceedings.
Bar of other suits against Government.
68. Power to recover water-dues, water-rates and other charges by revenue process.
69. Powers as regards canals, creeks, situate partly without the limits of the Punjab
70. Powers exercisable in cases of urgency with regard to canals situate beyond the Punjab.
71. Offences under the Act
72. Power to arrest without a warrant
73. Definition of "canal" for purposes of sections 71 and 72.
74. Power to make rules

SCHEDULE I.

SCHEDULE II

PUNJAB ACT III OF 1905.

PASSED BY THE LIEUTENANT-GOVERNOR OF THE PUNJAB IN COUNCIL.

(Received the assent of His Honour the Lieutenant-Governor on the 7th April, 1905, and that of His Excellency the Viceroy and Governor-General in Council on the 12th May 1905. The Governor-General's assent was first published in the "Punjab Government Gazette" on the 12th May 1905.)

FINANCIAL COMMISSIONERS OFFICE, PUNJAB.

CORRECTION SHEET NO. 117-P. L. A., DATED LAHORE, THE 8TH OCTOBER, 1938.

The Punjab Land Administration Act, Volume I.

The Punjab Minor Canals Act, 111 of 1905.

Page 5.

On the margin of correction sheet no. 71-P. L. A., dated the 4th September, 1937, insert the following authority:-

The Government of India (P.W.D. & L. & S. Deptt.) (1937)

in either Schedule I or Schedule II as the case may be.

(2) At any time after the commencement of this Act, the Provincial Government may, from time to time, by notification, -

- (a) include any canal under either Schedule I or Schedule II, as the case may be, or transfer a canal from one schedule to the other schedule, and thereupon the provisions of this Act applicable to canals included under such schedule, or such of the said provisions as the Provincial Government may direct, shall apply to such canal; or

~~to be excluded from the operation of this Act any canal which~~

(3) The Northern India Canal and Drainage Act, 1873, shall not apply to any canal which is for the time being included under either Schedule I or Schedule II.

Definitions

3. In this Act, unless there is something repugnant in the subject or context—

- (i) "Record-of-rights" and "Revenue Officer" have the meanings assigned to them respectively in the Punjab Land Revenue Act, 1887;
- (ii) "Canal" means any canal, natural or artificial channel or line of natural drainage or any reservoir, dam or embankment constructed, maintained or controlled for the supply or storage of water or the protection of land from flood or sand, and includes any water-course or subsidiary works as defined in this section,
- (iii) "Collector" means the head revenue-officer of a district and includes any officer appointed under this Act to exercise all or any of the powers of a Collector;
- (iv) "Commissioner" means a Commissioner of a division and includes any officer appointed under this Act to exercise all or any of the powers of a Commissioner,
- (v) "Construction" and "Construct" include any alteration which would materially extend the area irrigable by a canal or any other alteration of material importance or the renewal of a canal after disuse for six years, but do not include the re-excavation of a canal-head which has been temporarily abandoned owing to change in the river, the excavation of a new head necessitated by a change in the river or a change of water-courses to render existing irrigation more efficient,
- (vi) "Creek" means any channel of a river other than the main channel through which the water of the river would, unless obstructed by deposit of silt, naturally flow at some period of the year;
- (vii) "District" means a district as fixed for revenue purposes;
- (viii) "Irrigator" means in respect of any land which is irrigated from a canal any person for the time being directly deriving benefit by such irrigation and includes a land-owner or occupancy tenant of such land;
- (ix) "Labour" includes labourers, cattle and appliances necessary for the execution of the work for which labour is to be supplied;
- (x) "Mill" means any contrivance whereby the water-power of any canal is used for grinding, sawing or pressing, or for driving or working machinery or for

any other similar purpose, as for the purpose of works and structures connected with the canal, except the canal itself.

- (xi) "Subsidiary works" mean all works for the control or maintenance of the supply of water, the maintenance of a canal in proper condition, the regulation of the irrigation thereof, the prevention of floods or for the purpose of drainage, in connection with such irrigation, include also the land required for such works.
- (xii) "Water-course" means any channel supplied with water from a canal and which is maintained at the cost of the irrigators, and in subsidiary works connected with such channel the sluice or outlet through which water flows into such channel.
- (xiii) "Water-due" means whatever is payable in money or kind by the owner of a canal for the diversion by such owner for the purpose of the canal of the water of any river, creek, stream, or of any natural collection of water.
- (xiv) "Water-rate" means the charge made for the use of water, other than a water-due or canal land-revenue rate.

CHAPTER II

CONSTRUCTION OF CANALS AND WATER-DUES

4. When ^{the Provincial} Government has notified in this behalf any channel, lake or other collection of water, no person shall cut permission previously obtained in the manner prescribed in the section next following, construct a canal intended to be fed from any such channel, lake or other collection of water.

Provided that nothing in this section shall apply to the construction of a water-course from an existing canal.

5. (1) Any person desiring to construct a canal to be fed from any source of supply which has been notified by the Government under section 4, may apply, in writing, to the Government for the permission prescribed in that section.

(2) If no objection to the construction of such canal shall have been preferred within a period to be specified in the notice under sub-section (1), or if any such objection has been preferred within the said period, but has been finally over-ruled, the Collector may proceed to construct such canal

(3) The provisions of sections 50 and 63 shall apply to all proceedings of the Collector under sub section (1) of this section and under the preceding section, and the powers conferred upon the Collector by this and the preceding section shall be exercised subject to such sanction as the ~~Local~~ ^{Provincial} Government may prescribe and in accordance with the rules made by such Government

Power to prohibit the unauthorized construction of and to close an authorized canal

7. (1) If any person, without the permission necessary under sections 4 and 5 of this Act, or contrary to any of the conditions of such permission, commences to construct or proceeds with the construction of any canal, the Collector may, at any time, by order in writing, prohibit such person, and, by general proclamation, all other persons, from continuing the construction thereof

Provided that, unless in the case of a construction which would materially extend the area irrigable by a canal, no such order or proclamation, as the case may be, shall be made or issued in respect of any canal which at the time when it is proposed to make or issue such order or proclamation, has been used for irrigation for a period of three years without interruption, other than such as was due to natural causes beyond the control of the person aforesaid

(2) If any person shall, at any time after the commencement of this Act, construct a canal without the permission necessary under sections 4 and 5 of this Act, the Collector may, with the previous sanction of the ~~Local~~ ^{Provincial} Government close it and shut off the supply of water thereto, and may further, by order in writing, prohibit such person, and, by general proclamation, all other persons, from maintaining repairing or renewing such canal or continuing to use the water thereof

Water-dues

8. (1) ~~Subject to~~ ^{Subject to} the conditions, if any, imposed or agreed to by the ~~Local~~ ^{Provincial} Government such Government may assess and levy water dues in respect of—

- (i) canals made after the commencement of this Act,
- (ii) canals made before the commencement of this Act—
 - (a) when the right to, or question of, water dues has been expressly reserved by such Government, or
 - (b) when the conditions upon which the owner of the canal has been allowed to use the water have been agreed on for a term and that term has expired, or
 - (c) when such water-dues were already levied at the commencement of this Act

(2) The demand on account of water dues shall be assessed for a term of years, and shall be limited to an amount not exceed-

ing one quarter of the net profits which are likely to accrue to the owner of the canal during that term.

CHAPTER III

PROVISIONS APPLICABLE TO CANALS UNDER SCHEDULE I

9. Except as the ^{Provincial} Government may otherwise direct by order under section 69 the provisions of this chapter shall apply only to canals for the time being included under Schedule I.

10. (1) Notwithstanding the existence of any rights in or over a canal or water-course, the Collector may—

(a) exercise all powers of control management and distribution for the efficient maintenance and working of such canal or for the due distribution of the water thereof, and

(b) whenever and so long as any water-course, sluice or outlet is not maintained in proper customary repair, or any water-course, sluice or outlet through which water is supplied to any person, or, in the case of a sluice or outlet, to any water-course or any person, is subjected to wilful damage or wrongful enlargement, stop the supply of water to such water-course, sluice or outlet or to any person.

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.

CORRECTION SLIP NO. 120 P. L. A., DATED LAHORE, THE 8RD
OCTOBER, 1938.

The Punjab Land Administration Acts, Volume 1

The Punjab Minor Canals Act, III of 1905.

Page 9.

On the margin of correction slip no. 74-P. L. A., dated the 20th September, 1937, insert the following authority:—

The Government of India (Adaptation of Indian Laws) Order, 1937.

extinguish any right to which any person is entitled in or over any canal if the exercise of such right is prejudicial to the interests of other irrigators or to the good management, improvement or extension of the canal.

(2) In every such case the ^{Provincial} Local Government shall cause to be paid to the person whose right is suspended or extinguished,

ent to suspend or extinguish rights in or over any scheduled canal on payment of compensation.

* See now the Indian Limitation Act, 1908 (IX of 1908)

compensation to be assessed by the Collector under section 55. In assessing compensation for the purposes of this section, the Collector shall also have regard to the character of the right, the period during which it has been enjoyed and the damage likely to be occasioned by its suspension or extinction.

12. The Collector or other person acting under the general or special orders of the Collector may enter upon any lands adjacent to any canal, or through which any canal is proposed to be made, and undertake surveys or levels thereon,

and dig and bore into the sub-soil,

and make and set up suitable land-marks, level marks and water-gauges,

and do all other acts necessary for the proper prosecution of any inquiry relating to any existing or projected canal under the charge of the said Collector,

and, where otherwise such inquiry cannot be completed, the Collector or such other person may cut down and clear away any part of any standing crop, fence or jungle;

and may also enter upon any land, building or water-course on account of which any water-rate is chargeable, for the purpose of inspecting or regulating the use of the water supplied, or of measuring the lands irrigated thereby or chargeable with a water-rate, and of doing all things necessary for the proper regulation and management of such canal.

Provided that, if such Collector or person proposes to enter into any building or enclosed court or garden attached to a dwelling house not supplied with water flowing from any canal, he shall previously give the occupier of such building, court or garden at least seven days' notice in writing of his intention to do so.

In every case of entry under this section, the Collector shall, upon application made to him in this behalf, assess and pay compensation for any damage which may be occasioned by any proceeding under this section.

13. In case of any accident apprehended to a canal, the Collector may, under his general or special orders, enter upon any lands adjacent to such canal, and do all other acts necessary for the purpose of repairing or preventing such accident.

In every such case, the Collector shall, upon application made to him in this behalf, assess and pay compensation under section 55, for any damage which may be occasioned by any proceeding under this section.

Power to enter and survey, &c

Power to clear land

Power to inspect and regulate water supply

Notice of intended entry into houses

Compensation for damage caused by entry

Power to enter for repairs and to prevent accidents

Compensation for damage to land.

14. (1) The Collector or any person or special order in this behalf may, with the sanction of the Government may by land adjacent to any canal for the purpose

(a) depositing upon it soil excavated

(b) excavating from it earth for use

The Collector shall, upon application on behalf, assess and pay compensation for any land occasioned by any proceeding under this

(2) The owner of any land which he has occupied at the commencement of this Act for any purpose under sub-section (1) and has remained in such occupation for a period exceeding three years may require that such land shall be permanently required in accordance with provisions of section 41

15. Whenever application is made to a Collector for a supply of water from a canal, and it appears to him expedient that such supply should be given and that it should be conveyed through some existing water course he shall give notice to persons responsible for the maintenance of such water course to show cause on a day not less than fourteen days from the date of such notice why the said supply should not be so conveyed and after making inquiry on such day the collector shall determine whether and on what conditions the said supply shall be conveyed through such water course

The applicant shall not be entitled to use such water course until he has paid the expense of any alteration of such water course necessary in order to his being supplied through it and also such share of the first cost of such water course as the Collector may determine

Such applicant shall also be liable for his share of the cost of maintenance of such water course so long as he uses it

16. Any person desiring the construction of a new water-course may apply in writing to the Collector, stating—

(i) that he has endeavoured unsuccessfully to acquire from the owners of the land through which he desires such water course to pass, a right to occupy so much of the land as will be needed for such water-course;

(ii) that he desires the Collector, in his behalf and at his cost, to do all things necessary for acquiring such right,

(iii) that he is able to defray all costs involved in acquiring such right and constructing such water course

17. If the Collector considers—

(i) that the construction of such water course is expedient, and

(ii) that the statements in the application are true,

he shall call upon the applicant to make such deposit as the Collector considers necessary to defray the cost of the preliminary proceedings and the amount of any compensation which he considers likely to become due under section 20,

and upon such deposit being made he shall cause inquiry to be made into the most suitable alignment for the said water course and shall mark out the land which in his opinion it will be necessary to occupy for the construction thereof and shall forthwith publish a notice in every village through which the water course is proposed to be taken that so much of such land as belongs to such village has been so marked out

Applicat on
for transfer
of existing
water course

18 Any person desiring that an existing water course should be transferred from its present owner to himself may apply in writing to the Collector stating—

(i) that he has endeavoured unsuccessfully to procure such transfer from the owner of such water course

(ii) that he desires the Collector in his behalf and at his cost to do all things necessary for procuring such transfer

(iii) that he is able to defray the cost of such transfer

If the Collector considers—

(a) that the said transfer is necessary for the better management of the irrigation from such water-course and

(b) that the statements in the application are true

he shall call upon the applicant to make such deposit as the Collector considers necessary to defray the cost of the preliminary proceedings and the amount of any compensation that may become due under the provisions of section 20 in respect of such transfer, and upon such deposit being made he shall publish a notice of the application in every village affected

Inquiry into
and determina-
tion of
objections to
construct on
or transfer of
water-courses.

19. (1) When within thirty days from the publication of a notice under section 17 or section 18 as the case may be any person interested in the land or water course to which the notice refers applies to the Collector as aforesaid stating his objection to the construction or transfer for which application has been made the Collector shall give notice to the other persons interested that on a day to be named in such notice or any subsequent day to which the proceedings may be adjourned he will proceed to inquire into the matter in dispute or into the validity of such objections as the case may be

(2) Upon the day so named or any such subsequent day as aforesaid the Collector shall proceed to hear and determine the dispute or the objection as the case may be

20. No applicant under section 16 or section 19, at the expiration of which he may be, shall be placed in occupation of such land or water-course until he has paid to the person named by the Collector such sum as the Collector determines to be due as compensation for the land or water-course so occupied or transferred, and for any damage caused by the marking out or occupation of such land, together with all expenses incidental to such occupation or transfer.

Compensation to be made under this section shall be assessed as provided in section 55, but the Collector may, if the person so be compensated so desire, award such compensation in the form of a rent charge payable in respect of the land or water-course occupied or transferred.

If such compensation and expenses are not paid when demanded by the person entitled to receive the same, the amount may be recovered by the Collector, and shall, when recovered, be paid by him to the person entitled to receive the same.

21. (1) When any such applicant has duly complied with the conditions laid down in section 20, he shall be placed in occupation of the land or water-course as aforesaid, and the following rules and conditions shall be thereafter binding on him and his representative in interest —

(a) In all cases—

First—All works necessary for the passage across such water-course or water-courses existing previous to its construction and of the drainage intercepted by it, and for affording proper communications across it for the convenience of the neighbouring lands, shall be constructed by the applicant, and be maintained by him or his representative in interest to the satisfaction of the Collector.

Second.—Land occupied for a water-course under the provisions of section 17 shall be used only for the purpose of such water-course.

Third.—The proposed water-course shall be completed to the satisfaction of the Collector within one year after the applicant is placed in occupation of the land.

(b) In cases in which land is occupied or a water-course is transferred, on the terms of a rent-charge—

Fourth.—The applicant or his representative in interest shall, so long as he occupies such land or water-course, pay rent for the same at such rate and on such days as are determined by the Collector when the applicant is placed in occupation.

Fifth.—If the right to occupy the land cease owing to a breach of any of these rules, the liability to pay the said rent shall continue until the applicant or his representative in interest has restored the land to its

original condition, or until he has paid, by way of compensation for any injury done to the said land, such amount and to such person as the Collector determines

Sixth.—The Collector may, on the application of the person entitled to receive such rent or compensation, determine the amount of rent due or assess the amount of such compensation and if any such rent or compensation be not paid by the applicant or his representative in interest, the Collector may recover the amount, with interest thereon at the rate of six per cent per annum from the date on which it became due, and shall pay the same, when recovered, to the person to whom it is due

(2) If any of the rules and conditions prescribed by this section are not complied with, or if any water-course constructed or transferred under this Act is disused for three years continuously, the right of the applicant, or of his representative in interest, to occupy such land or water course shall cease absolutely

Construction
of outlets
from canals
by Collector

22. The Collector may construct or repair or alter a sluice or outlet to regulate the supply of water from a canal to any water course

Lower to connect
several
water courses
running for a
long distance
side by side
into one
water course

23. (1) In cases where there are water-courses running side by side or so situated as to interfere with the economical use or proper management of the water-supply, the Collector, if applied to for that purpose, or on his own motion may require the owners to make arrangements to his satisfaction to unite the water-courses or to substitute for them such system as may have been approved by him

(2) If the owners fail within such time as the Collector may fix to comply with any order passed by him under sub-section (1) the Collector may himself execute the work

(3) Whenever a water-course has been reconstructed or a new system substituted under sub-section (1) or sub-section (2), the Collector may fix the shares in which the water shall be enjoyed by the persons entitled to use the water-course

Procedure ap-
plicable to
occupation
for extensions
and alter-
ations.

24. The procedure hereinbefore provided for the occupation of land for the construction of a water-course shall be applicable to the occupation of land for any extension or alteration of a water course and for the deposit of soil from water course clearances

Costs of ex-
cavating works
under sec-
tion 22 or
section 23 by
whom pay-
able

25. In every case under section 22 or section 23, the cost of executing or completing the work shall be payable by such person or persons deriving benefit from the water course as the Collector may in each case determine

26. The ^{Provincial} ~~Local~~ Government may, by special order, direct that the irrigators from any canal or canals shall be bound to furnish labour free of cost for the purpose of effecting the annual silt clearance of canals or of maintaining such canal or canals in a state of execution any work necessary thereto, in the following cases, namely:—

- (a) whenever such irrigators are bound, by a condition entered in the records of rights of such canal or canals or of the estates supplied with water therefrom or by established custom to furnish such labour, or
- (b) whenever the land-owners who are responsible for the payment of more than half the land revenue assessed on the land irrigated from such canal, or canals, agree to undertake to supply such labour.

27. Upon the issue of a notification under section 26 the Collector may, from time to time by general or special order, —

- (a) determine the amount of labour to be provided or the amount of work to be performed by each irrigator, or
- (b) regulate the attendance distribution and control of the labourers provided or the manner of the performance of the work,
- (c) assess and recover the cost of such labour from any person who fails to comply with an order passed under this section, and
- (d) fund all costs so recovered and expend them on the provision of hired labour for any of the canals to which the notification applies, or subject to the provisions, if any, of a record of-rights specified in section 26 or section 28, on any other purpose connected with the well being thereof.

I was of
collect
in issue of
notification
in section
26

I was to
be
recovered
canal

Provided that the costs assessed as aforesaid shall not exceed eight annas for each day's labour of each of the labourers in respect of whom default has occurred.

28. (1) The Collector shall, whenever the ^{Provincial} ~~Local~~ Government may, by special order or by the rules made under the authority of this Act, so direct, prepare or revise for any canal a record showing all or any of the following matters, namely:—

- (a) the custom or rule of irrigation,
- (b) the rights to water and the conditions on which such rights are enjoyed,
- (c) the rights as to the erection, repair, reconstruction and working of mills, and the conditions on which such rights are enjoyed; and
- (d) such other matters as the ^{Provincial} ~~Local~~ Government may by rule prescribe in this behalf.

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.
CORRECTION SLIP NO. 121-P. L. A., DATED LAHORE, THE 3RD
OCTOBER, 1938

The Punjab Land Administration Acts, Volume I.

The Punjab Minor Canals Act III of 1905.

Section 28, page 18.

On the margin of correction slip no. 75-P. L. A., dated the 20th
September, 1937, insert the following authority:—

The Government of India (Adaptation of Indian Laws) Order, 1937.

Collector, or to any person —
lector, all information necessary for the correct preparation of a
record under this section

(5) The provisions of Chapter IV of the Punjab Land Revenue XVI
Act, 1887, shall, so far as may be, apply to the preparation and 1887
revision of every such record.

Water-rates.

Levy of
water rates.

29. (1) Subject to the terms of any agreement made by it
with the owners or irrigators, the ^{Provincial} Government may, by noti-
fication, direct that a rate or rates shall be levied for the use of
water of a canal in an authorized manner

(2) The ^{Provincial} Government may, by notification, also impose
a special rate for all water obtained or used without authority or
in an unauthorized manner.

(3) The rate or rates imposed under sub-section (1) or sub-
section (2) shall be leviable from such persons deriving benefit
from the water as the ^{Provincial} Government may, by general or special
rule, direct

(4) Subject to the terms of any such agreement as aforesaid,
the proceeds of any rate or rates levied under this section shall be
disposed of in such manner as the ^{Provincial} Government may, by
general or special rule, direct.

Liability
when person
using un-
authorizedly
cannot be
identified

30. If water supplied through a water-course be used in an
unauthorized manner, and if the person by whose act or neglect
such use has occurred cannot be identified,

the person on whose land such water has flowed if such
land has derived benefit therefrom,

or, if such person cannot be identified, or if such
land has not derived benefit therefrom, all the persons
chargeable in respect of the water supplied through
such water-course,

shall be liable, or jointly liable as the case may be, to the charges
made for such use.

31. If water supplied through a water-course be suffered to run to waste, and if, after inquiry by the Collector, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, all the persons chargeable in respect of the water supplied through such water-course shall be jointly liable for the charges made in respect of the water so wasted.

Notice when water runs to waste.

32. All charges for the unauthorized use or for waste of water may be recovered in addition to any penalties incurred on account of such use or waste.

Charges recoverable in addition to penalties.

All questions under section 30 or section 31 shall be decided by the Collector.

CHAPTER IV

PROVISIONS APPLICABLE TO CANALS INCLUDED UNDER SCHEDULE II.

33. Except as the *Provincial* Local Government may otherwise direct under section 69 of the provisions of this chapter shall apply only to canals for the time being included under Schedule II.

This Chapter applicable only to canals under Schedule II.

34. Where there are numerous share-holders in the ownership of a canal, or where it is difficult to ascertain the persons who are share holders, or the extent of the interest of the share-holders, or any of them, the Collector may, if there is no proper manager or representative, require by a proclamation or notice in writing, the share holders to nominate, within a given period, a fit person as manager of the canal and their representative, and, upon their failure to do so, may himself appoint any person to be the manager of such canal and the representative of the share-holders, and the person so appointed may thereupon do all acts and things which the share holders or any of them might lawfully do in regard to the management of such canal, and all acts and things so done by him shall be binding upon every person who possesses any share in the ownership of such canal.

Power of the Collector, in certain cases to declare or appoint a manager of canal.

35. The *Provincial* Local Government may, by notification, declare all or any of the provisions of section 28 (as to the preparation and revision of records) to be applicable to any canal, and, upon any such declaration being made, such provisions shall, as far as may be, apply accordingly.

Power of Provincial Government to apply the provisions of section 28 to any canal. Power to assume control or management, or both of a canal.

36. (1) It shall be lawful for the *Provincial* Local Government, by notification, to assume the control or management, or both, of any canal—

- (a) if the owner of such canal consents thereto, and subject to the condition (if any) on which such consent may in any case be given,
- (b) if, after inquiry, the *Provincial* Local Government is satisfied that the control or management exercised by or on behalf of the owner is such as causes grave injury to the property or health of persons owning lands in the vicinity;

(c) in the event of any wilful and continuous breach of orders issued under section 39 of this Act

(2) When the control or management, or both, of any canal is assumed under the provisions of sub-section (1), the Local Government may exercise all or any of the rights and powers in regard thereto which, but for such assumption, the owner might lawfully have exercised, and may delegate such powers or any of them to any person, but Government shall in the absence of any decree or agreement to the contrary be liable to account, from time to time, to such owner for the income and expenditure thereof and may at any time restore the canal to the owner

Right of owner upon such assumption to demand that the canal shall be acquired by the Government

37 When the control or management, or both, of a canal shall be assumed by the ~~Local~~ ^{Provincial} Government under clause (b) or clause (c) of sub-section (1) of section 36, and such control or management shall have continued for a period exceeding six years, the owner thereof may, by notice in writing delivered to the Collector, require that the Government shall acquire such canal

Power to acquire canal on demand of the owner.

38 On receipt of notice under sub-section 37 the ~~Local~~ ^{Provincial} Government shall by notification declare that the said canal will be acquired after a day to be named in the said notification, not being earlier than three months from the date thereof and after the issue of such notification the Collector shall proceed as in sections 46 and 47 provided

Power to fix the limits of irrigation and water rates and to regulate the distribution of water

39. The ~~Local~~ ^{Provincial} Government may, after inquiry through the Collector, in respect of any canal, issue orders as to all or any of the following things namely—

- (a) fixing the limits within which land may be irrigated from such canal,
- (b) fixing, as it may deem equitable, the amount and character of the water rates leviable by the owner, and the conditions on which such rates are to be paid, suspended, remitted or refunded,
- (c) regulating the supply and distribution of the water to and from such canal

Provided that if any land which has been continuously irrigated from the canal for three years previously is deprived of irrigation, or the income of the canal owner from such canal is materially reduced by reason of any order passed under this section, the owners of such land or the canal-owner shall be paid by Government or by such persons as Government may determine such compensation as the Collector may consider reasonable

Provided further that if the canal-owner has in the opinion of the ~~Local~~ ^{Provincial} Government exercised his powers as such in an arbitrary or inequitable manner, he shall not be entitled to compensation under this section

40. (1) The ^{Provincial} ~~Local~~ Government may, at the request of the owner, undertake the collection of the water-rates leviable in respect of a canal for such period as may be agreed upon with him, and may, thereupon,—

Collect in certain cases, the water rates of a canal by the Local Government

(a) regulate such collection and determine the person by whom it shall be made,

(b) direct that by way of payment for service rendered in making such collection, deductions shall be made not exceeding 3 per cent of the amount collected

(2) During the period for which the ^{Provincial} ~~Local~~ Government has undertaken the collection of the water-rates leviable in respect of a canal, no suit for the recovery of any such rates shall be instituted

CHAPTER V

PROVISIONS APPLICABLE TO ALL CANALS

41. Save as otherwise hereinafter expressly provided, the provisions of this Chapter shall be applicable to all canals, whether included under Schedule I or under Schedule II

This Chapter is applicable to all canals

42. Whenever, in respect of any canal, any question arises which has under this Act or the rules made thereunder, to be determined by the request, consent or decision of the owner, and the ownership of such canal is vested in more persons than one who are unable to agree as to such request, consent or decision it shall be lawful to the Collector to act on behalf of the owners in any such matter, and the request, consent or decision of the Collector in any such case shall be binding upon every person who possesses any share in the ownership of such canal

Consent or decision of the owner how to be determined.

In every such case the Collector shall give due consideration to the wishes of the share-holder or share-holders who possess the larger interest, and when the question is one whether the Government shall be required to take any action, the wishes of such share-holder or share holders shall prevail and be accepted by the Collector

43. (1) Save as provided in the preceding section, whenever a dispute arises between two or more persons in regard to their mutual rights and liabilities in respect of the ownership, construction, use or maintenance of a canal or water-course, and any such person applies in writing to the Collector stating the matter in dispute, the Collector shall give notice to the other person or persons interested that on a day to be named in such notice or any such day to which the proceedings may be adjourned, he will proceed to inquire into the matter in dispute

Settlement of disputes.

(2) Upon the day so named or any such subsequent day as aforesaid, the Collector shall proceed to hear and determine the dispute in the following manner, that is to say,—

(a) If the dispute relates to the ownership of a canal or the mutual rights of owners in the use of the water of such canal or the construction or maintenance of a

canal or the payment of any share of the costs of such construction or maintenance or the distribution of the supply of water from a canal, the Collector shall proceed as a Revenue Court under the provisions of the Punjab Tenancy Act, 1887, and the provision of that Act regarding appeals, revisions and reviews shall be applicable

- (b) If the dispute relates to a water-course the Collector shall hear and determine the case as a Revenue Officer and shall make such order thereon as to him seems fit, and such order shall unless set aside on appeal to the Commissioner be conclusive as to the use or distribution of water for any crop sown or growing at the date of such order. The order of the Commissioner on appeal shall in every such case be final

Acquisition
of land for
canals

Provincial (1) Any person who has obtained the permission of the Local Government to construct, or who owns a canal, may apply in writing to the Collector to take up any land required for the purposes of such canal

(2) If the Collector is of opinion that the application should be granted, he shall submit it, with his recommendation for the orders of the Local Government *Provincial*

(3) If, in the opinion of the Local Government the application should, whether in whole or in part, be granted it may declare that the land is required for a public purpose within the meaning of the Land Acquisition Act, 1894, and direct the necessary action to be taken thereunder *Provincial*

Power to
acquire
canal
by consent or
otherwise

45. Whenever it appears to the Local Government expedient in the public interest to acquire any canal, the Local Government may by notification declare that the said canal will be acquired after a day to be named in the said notification not being earlier than six months from the date thereof

Notice as to
claims for
compensation.

46. As soon as practicable after the issue of such notification the Collector shall cause public notice to be given at convenient places stating that the Local Government intends to acquire the said canal as aforesaid and that claims for compensation in respect of the acquisition thereof may be made before him *Provincial*

Inquiry into
claims

47. (1) The Collector shall proceed to inquire into any such claims and to determine the amount of compensation, which should be given to the claimant. In assessing such compensation the Collector shall proceed as provided in section 55, but for the purposes of this section he shall also have regard to the history of the canal the expenditure incurred thereon and the profits of the owner

Limitation of
claims.

(2) No claim for compensation shall be enforceable after the expiration of one year from the date of the notice under section 46 unless the Collector is satisfied that the claimant had sufficient cause for not making the claim within such period

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB

CORRECTION SLIP NO 122 P. L. 1, DATED LAHORE, THE 2ND OCTOBER, 1908

The Punjab Land Administration Acts, Volume 1.

The Punjab Minor Canals Act, III of 1905

Section 49, para. 21

On the margin of correction slip no 76-P L 1 dated the 23rd September, 1907, insert the following authority —

The Government of India (113,131st of Indian Laws) Order 1907

in the official Gazette, —
any river, creek, natural channel or line of natural drainage in rivers, creeks, natural channels or lines of natural drainage and to prohibit therein or order removal therefrom of obstructions whether by the construction or removal of works or otherwise, and whenever it appears to such Government, after inquiry through the Collector that the supply of water to a canal or the cultivation of any land or the public health or public convenience is likely to be injuriously affected by the obstruction of any river, creek, natural channel or line of natural drainage it may, by notification published as aforesaid, prohibit within the limits to be defined by such notification the formation of such obstruction, or may within such limits order the removal or other modification of such obstruction

50. (1) The Collector may, after such publication, issue an order to the person causing or having control over any such obstruction to remove or modify the same within a time to be fixed in the order — Power to remove obstruction after publication of notification and payment of compensation

(2) The Collector may himself remove or modify the obstruction —

(a) if the person to whom the order under sub section (1) was issued fails to comply with that order within the time so fixed and

(b) in any case where the obstruction is not caused or controlled by any person

(3) The Collector shall determine from whom the cost of removing or modifying the obstruction shall be recovered and the amount of compensation due to any person injuriously affected by the removal or modification of the obstruction and the person by whom such compensation shall be payable

Provided that no compensation shall be awarded for an advantage obtained by an arbitrary or inequitable course of action

51. When the ~~Local~~ ^{Provincial} Government has by notification as provided in section 49 taken power to regulate the flow of water in any river, creek or natural channel or line of natural drainage it may authorize the Collector to exercise such power on its behalf in accordance with such rules as it may prescribe A Collector so Power of the Collector to regulate flow of water and prohibit or remove obstructions.

authorised may in the execution of such rules exercise all the powers conferred upon him by section 50, and his authority shall include the power to take such action as the ~~Local Government~~ ^{Government} is empowered by section 49 to take after inquiry through the Collector. Such authority may on every occasion be exercised without the publication of any further notification in the Gazette.

Powers as to
the construction
and
maintenance
of works in
respect of
canals under
Schedule II

52. (1) The Collector may, at any time, order the owner of any canal under Schedule II to—

- (a) repair and maintain, in a proper state, all or any embankments, protective works, reservoirs, channels, water-courses, sluices, outlets and other works connected with the canal;
- (b) construct, repair and maintain, in a proper state, a suitable bridge, culvert, or similar work at any place across, under, or over the canal, for the purpose of providing communication with any public road or thoroughfare which was in use before the canal was made;
- (c) construct, repair and maintain, in a proper state, suitable works for the passage of the water of the canal across, under, or over any public road or thoroughfare or any canal or drainage channel which was in use before the canal was made;
- (d) construct, repair and maintain, in a proper state, a suitable regulator at or near the head of the canal where, for want of such regulator, an excessive supply of water may enter the canal or cause damage to it, or any crops, lands, roads or property in the neighbourhood

“ Canal ” as used in this sub-section does not include “ water-course ”

(2) The Collector may at any time order the owner of a water-course to perform in respect of such water-course all or any of the acts which he may under sub-section (1) order the owner of a canal to perform in respect of the canal, and may direct the owner of the canal to cease supplying water to the water-course till the owner of the water-course has complied with the order.

(3) Every order under sub-sections (1) and (2) shall be in writing, and shall specify a reasonable time within which the works or repairs mentioned therein shall be completely executed.

(4) If any order made under this section is not obeyed, to the satisfaction of the Collector, within the time therein specified, the Collector may himself execute or complete the execution of, or cause to be so executed or completed, all works or repairs specified in the order.

53. In the case of canals included under Schedule I, the Collector may—

- (a) call upon the irrigators to discharge any of the liabilities specified in section 52, sub-section (1), which the Government may have declared to attach to the irrigators from such canal or group of canals, or

- (b) himself arrange for the performance of such acts and recover the cost as provided in section 57

54. (1) If any new work is immediately required to prevent serious detriment to the utility of a canal, the Collector may, notwithstanding anything in the Land Acquisition Act, 1894, take immediate possession of any land required for the construction of the work

(2) When the Collector has taken possession of any land under sub-section (1), he shall upon application made to him in this behalf, assess and pay compensation under section 55

(3) In the event of sudden and serious damage or urgent risk to a canal or to property situate in the immediate neighbourhood thereof or to irrigation carried on therefrom or to the public traffic, the Collector may after giving previous notice execute or cause to be executed such works as he may think necessary in order to remedy or prevent such damage or risk and may require any irrigator to furnish such labour as to the said Collector may seem reasonable and necessary for the immediate execution of such works

(4) Labour furnished under this section shall be paid for at the local market rate

(5) An order passed under sub-sections (3) and (4) shall be final

55. In assessing the amount of compensation to be paid under any section of this Act other than sections 12 14 21 39 and 50 the Collector shall proceed under the provisions of the Land Acquisition Act 1894 and the provisions of that Act regarding inquiries and awards by the Collector references to the Civil Courts and procedure thereon apportionment of compensation payment and appeals shall as far as may be be applicable to all proceedings under this section

56 With the consent of the parties the Collector may when assessing the amount of compensation to be paid direct in the case of an acquisition of land that the property in such land shall remain with the owner subject to a right of user so long as the land is required for the purpose of the canal or water-course compensation being awarded for the right of user only or in the case of an acquisition of a canal or of land for the purposes of a canal that the compensation shall take the form in whole or in part of a right to a supply of water from the canal which has been acquired or for the purposes of which land has been acquired

I desire to
consent to
and main-
tenance of works
in respect of
canals under
Schedule I

I want to
take
possession
and to con-
struct
works in
cases of
emergency

Assessment
of compensa-
tion

Compensation
for right
of user or in
the form of a
supply of
water

Apportionment and recovery of the cost of land acquired or works executed.

57. (1) When any land is acquired under the provisions of section 44, or when any work is executed by or under the orders of the Collector under the provisions of section 50, section 52, section 53 or section 54, the cost of acquiring such land or of executing such work, as the case may be, shall be recoverable—

- (a) if the canal is included under Schedule II,—from the owner thereof, or
- (b) if the canal is included under Schedule I,—from the irrigators or such of them as are, in the opinion of the Collector, benefited or likely to be benefited by the acquisition or equitably liable for the whole or any part of the cost of executing the work or from the proceeds of any water-rate levied under section 29; and
- (c) if such appropriation is not contrary to the provisions of the record-of-rights specified in section 28 of this Act,—from the fund referred to in section 27 of this Act

(2) When the cost of acquiring any land or of executing any work is, under the provisions of sub-section (1), recoverable from the owner of any canal or from the irrigators therefrom, or any of them, it shall be lawful for the Collector to apportion such cost as to him may seem equitable, among all or any of the persons liable for the whole or any portion thereof and such apportionment shall be final

(3) When the cost of acquiring such land has been paid, such land, if acquired in full proprietary right, shall become the property of the canal-owner

Power to regulate mills

58. The ^{Provincial} Local Government may, by general or special order, prohibit or regulate the construction of new, and regulate the use of existing, mills upon canals, and the appropriation of the water of canals for working mills

Application of sections 13 to 16 of Land Revenue Act 1897

59. Except in so far as a contrary intention is expressed, sections 13 to 16 (both inclusive) of the Punjab Land Revenue Act of 1897, shall apply to all proceedings under this Act

Exclusion of jurisdiction of Civil Court except under Land Acquisition Act

60. Save as in section 55 provided, no Civil Court shall have jurisdiction in any matter which a Revenue Officer or Revenue Court is empowered by this Act to ^{dispose of} or take cognizance of the manner in which the ^{Provincial} Local Government or any Revenue Officer or Revenue Court exercises any powers vested in it or him by or under this Act.

Power to appoint officers to exercise functions under this Act

61. (1) The ^{Provincial} Local Government may appoint any person or any class of officials to perform any functions or to exercise any powers, by this Act or the rules made thereunder conferred on or vested in the Collector, Commissioner, Financial Commissioner or such Government.

(2) Such appointments may be made in respect of all or any of the canals situate within any district.

(3) In all matters connected with this Act, the District Magistrate shall have and exercise over the Financial Commissioner and the Collector, and the District Magistrate shall have and exercise over the Commissioner of the District and the Commissioner shall have and exercise over the District Magistrate the same authority and control as it or they respectively exercise over them in the general and revenue administration.

62. For the purposes of every inquiry made and taken under this Act, the Collector or any other officer authorized by him in this behalf shall have power to enforce the attendance of and examine parties and witnesses, compel the production of documents, and for all or any of the purposes may exercise all or any of the powers conferred on a Court by the Code of Civil Procedure, 1882,* and every inquiry shall, for the purposes of the Indian Penal Code, be deemed to be a judicial proceeding.

63. In all cases under sections 6, 8, 11, 21, 23, 26, 30, 31, 36, 38, 39, 40, 42, 43, 47, 49, 50, 52, 54 and 57 of this Act owners and other parties interested in the canal shall be given the opportunity of appearing before the Collector and of showing to the contrary.

64. Every summons, notice, proclamation and other process issued under this Act shall, as far as may be, be served or executed in the manner provided in that behalf in sections 20, 21 and 22 of the Punjab Land Revenue Act, 1887.

65. Save as otherwise expressly provided in this Act no person shall be entitled to recover any compensation for any loss or damage at any time done or in good faith intended to be done in exercise of any power conferred by this Act or by the rules made thereunder.

66. No suit, prosecution or other legal proceeding shall be maintained against any person for anything done, or in good faith intended to be done under this Act or the rules made thereunder.

67. (1) In any suit or proceeding in which an entry made in any record prepared under section 28 or section 35 is directly or indirectly called in question the Court shall, before the final judgment or decree, give notice of the suit or proceeding to the

power to
recover water
dues water
rates and
other charges
by revenue
process

68. All water-dues, water-rates and other payments at any time due by or to be collected from any person under any provision of this Act or under an agreement entered into by the owners of the canal or the person irrigating from it and all arrears of such water dues, water-rates or other payments shall be recoverable as if the same were arrears of land revenue

Powers as re-
gard canals
creeks situate
partly with-
out the limits
of the
Punjab

69. Any or all of the powers exercisable by the <sup>Provinci-
al</sup> Government under this Act in respect of any canal, river, or creek, may be exercised by such Government in the case of any canal, river, or creek, which is or may at any time be situate partly within and partly without the limits of the Punjab and in respect of so much of any such canal, river, or creek, as is within those limits and in the case of any such canal, river or creek, the <sup>Provinci-
al</sup> Government may by notification, and notwithstanding the provisions of section 2, declare what sections of this Act shall be applicable thereto

to exer-
cise
in cases of
urgency with
regard to
canals situate
beyond the
Punjab
Offences
under the
Act

70. In respect of any canal situate beyond the limits of the Punjab the <sup>Provinci-
al</sup> Government may, by notification published in the official Gazette, declare that the powers exercisable by a Collector under section 54 may, under the circumstances there specified, be exercised by the Collector or other authorized officer within the limits of the Punjab for all or any of the purposes of such canal

71. Whoever without proper authority and voluntarily does any of the acts following, that is to say,—

- (1) damages, alters, enlarges, or obstructs any canal,
- (2) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under any canal,
- (3) interferes with or alters the flow of water in any river, creek or stream so as to endanger, damage or render less useful any canal;
- (4) being responsible for the maintenance of any water-course or using a water course, neglects to take proper precautions for the prevention of waste of the water thereof or interferes with the authorized distribution of the water therefrom or uses such water in an unauthorized manner;
- (5) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used,
- (6) being liable to furnish labour under this Act, fails without reasonable cause, to supply or to assist in supplying the labour required of him,
- (7) being liable to supply labour under this Act, neglects, without reasonable cause, so to supply and to continue to supply labour;

- (8) destroys or removes any level mark or water gauge fixed by the authority of a public servant;
- (9) passes or causes animals or vehicles to pass on or across any of the works, banks or channels of a canal contrary to rules made under this Act after he has been desired to desist therefrom,
- (10) disobeys any order or proclamation issued under this Act, or commits any breach of any rule made thereunder;

shall be liable on conviction before a Magistrate of such class as

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.

CORRECTION SLIP NO 124-P. L. A., DATED LAHORE, THE 22ND
OCTOBER, 1937.

The Punjab Land Administration Acts, Volume I.

The Punjab Minor Canals Act, III of 1905.

Section 72, page 27.

On the margin of correction slip no 75 P. L. A., dated the 20th
September, 1937, insert the following authority —

The Government of India (Adaptation of Indian Laws) Order, 1937.

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.

CORRECTION SLIP NO 125-P L A DATED LAHORE, THE 3RD
OCTOBER, 1939.

The Punjab Land Administration Acts, Volume I.

The Punjab Minor Canals Act, III of 1905.

Section 74, page 27.

On the margin of correction slip no. 79 P. L. A., dated the
20th September, 1937, insert the following authority:—

The Government of India (Adaptation of Indian Laws) Order, 1937

THE PENSIONS ACT, 1871.

CONTENTS

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- 1 Short title, extent and commencement
- 2 Enactments repealed, saving of rules
- 3 Interpretation section

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- 4 Bar of suits relating to pensions
- 5 Claims to be made to Collector, Deputy Commissioner, or other authorized officer
- 6 Power of Civil Court to take cognizance of such claims.
- 7 Pensions for lands held under grants in perpetuity

PART III

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- 8 Payment to be made by Collector, Deputy Commissioner, or other authorized officer
- 9 Saving of rights in respect of the recovery of land-revenue
- 10 Commutation of pensions

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- 11 Exemption of pension from attachment
- 12 Assignments, etc., in anticipation of such pensions, to be void
- 13 Reward to informers
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SCHEDULE — ENACTMENTS REPEALED

THE PENSIONS ACT NO. XXIII OF 1871.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of His Excellency the Governor-General
on the 5th August 1871.)

As amended by—

ACT XII OF 1891, ACT X OF 1914 AND ACT XII OF 1927.

AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO PENSIONS AND GRANTS BY GOVERNMENT OF MONEY OR LAND REVENUE

WHEREAS it is expedient to consolidate and amend the law relating to pensions and grants by Government of money or land revenue, it is hereby enacted as follows:—

I.—PRELIMINARY.

1. This Act may be called The Pensions Act, 1871:
It extends to the whole of British India.

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.

CORRECTION SLIP NO. 128 P. L. A, DATED LAHORE, THE 5TH OCTOBER, 1938.

Punjab Land Administration Acts, volume I
The Pensions Act, 1871.

I After section 3 insert—

"3-A The expression 'the appropriate Government' means in relation to federal pensions, the Central Government, and in relation to other pensions, the Provincial Government"

II. Sections 5 and 10—

For the words "Local Government" substitute the word:
"appropriate Government".

III Section 11.—At the end insert—

"This section applies in British India also to pensions granted or continued, after the separation of Burma from India, by the Government of Burma".

IV. Section 13—For the words "Local Government" substitute the words "appropriate Government"

V. Section 14—

- (i) At the beginning insert the words "In each Province".
- (ii) For the words "Local Government" substitute the words "appropriate Government".
- (iii) For the words "Local official Gazette" substitute the words "Official Gazette".

P. L. A. dated 27th July, 1937, is

THE PENSIONS ACT NO. XXIII OF 1871.

PASSED BY THE GOVERNOR-GENERAL OF INDIA IN COUNCIL

(Received the assent of His Excellency the Governor-General on the 5th August 1871.)

As amended by—

ACT XII OF 1891, ACT X OF 1911 AND ACT XII OF 1927.

AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO PENSIONS AND GRANTS BY GOVERNMENT OF MONEY OR LAND REVENUE

WHEREAS it is expedient to consolidate and amend the law relating to pensions and grants by Government of money or land revenue; it is hereby enacted as follows:—

I—PRELIMINARY.

1. This Act may be called The Pensions Act, 1871;

It extends to the whole of British India

Short title

2. The enactments mentioned in the schedule hereto annexed shall be repealed to the extent specified in the third column of the said schedule

Table of Act
Enactments to be repealed

But all rules in regard to the award and payment of pensions or grants of money or land-revenue, and the identification of the persons entitled to receive them, made under any such enactment shall be deemed to have been made under the ~~Act~~ *Pensions Act, 1871.*

Saving of rules

I. After section 3 insert—

“3-A. The expression ‘the appropriate Government’ means in relation to federal pensions, the Central Government, and in relation to other pensions, the Provincial Government”.

Interpretation section

And provided, no Civil Court shall entertain any suit relating to any pension or grant of money or land-revenue conferred or made by the British or any former Government, whatever may have been the consideration for any such pension or grant, and whatever may have been the nature of the payment, claim or right for which such pension or grant may have been substituted.

Bar of suits relating to pensions.

5. Any person having a claim relating to any such pension or grant may prefer such claim to the Collector of the District or Deputy Commissioner or other officer authorized in this behalf by the Local Government, and such Collector, Deputy Commissioner or other officer shall dispose of such claim in accordance with such rules as the Chief Revenue-authority may, subject to the general control of the Local Government, from time to time prescribe in this behalf.

Claims to be made to Collector, Deputy Commissioner, or

Power of
Civil Court
to take
cognizance of
such claims

6. A Civil Court, otherwise competent to try the same, shall take cognizance of any such claim upon receiving a certificate from such Collector, Deputy Commissioner or other officer authorized in that behalf that the case may be so tried, but shall not make any order or decree in any suit whatever by which the liability of Government to pay any such pension or grant as aforesaid is affected directly or indirectly.

Pensions for
lands held
under grants
in perpetuity.

7. Nothing in sections four and six applies to—

(1) any inam of the class referred to in the first section of Madras Act No. IV of 1862

(2) pensions heretofore granted by Government in the territories respectively subject to the Lieutenant-Governors of Bengal and the North-Western Provinces, either wholly or in part, as an indemnity for loss sustained by the resumption by a Native Government of lands held under sanads purporting to confer a right in perpetuity. Such pensions shall not be liable to resumption on the death of the recipient, but every such pension shall be capable of alienation and descent, and may be sued for and recovered in the same manner as any other property.

III.—MODE OF PAYMENT.

8. All pensions or grants by Government of money or land-revenue shall be paid by the Collector or the Deputy Commissioner or other authorized officer, subject to such rules as may, from time to time, be prescribed by the Chief Controlling Revenue-authority.

9. Nothing in sections four and eight shall affect the right of a grantee of land-revenue, whose claim to such grant is admitted by Government, to recover such revenue from the persons liable to pay the same under any law for the time being in force for the recovery of the rent of land.

10. The Local Government may, with the consent of the holder, order the whole or any part of his pension or grant of money or land-revenue to be commuted for a lump sum on such terms as may seem fit.

IV.—MISCELLANEOUS

11. No pension granted or continued by Government on political considerations, or on account of past services or present infirmities or as a compassionate allowance,

and no money due or to become due on account of any such pension or allowance,

III. Section 11.—*...* or sequestration by process of a creditor, for any action of a decree or order

"This section applies to
or continued
India, by

orders, sales and securities of every kind made by the person entitled to any pension, pay or allowance mentioned in section eleven, in respect of any money not payable at or before the making thereof, on account of any such

Payment to
be made by
Collector,
Deputy Com-
missioner or
other author-
ized officer.
Saving of
rights in
respect of the
recovery of
land-revenue.

Commutation
of pensions.

Exemption of
pension from
attachment

Appointments,
etc. in an-
tecedent of
such pensions
to be void.

pension, pay or allowance, or for giving or assigning any future interest therein, are null and void

13. Whoever proves to the satisfaction of the ^{Local} ~~British~~ Government that any pension is fraudulently or unduly received by the person enjoying the benefit thereof shall be entitled to a reward equivalent to the amount of such pension for the period of six months ^{in each province}.

14. ^{The} ~~The~~ Chief Controlling Revenue authority may, with the consent of the ~~Local~~ ^{Local} Government from time to time, make rules consistent with this Act respecting all or any of the following matters —

- (1) the place and times at which and the person to whom, any pension shall be paid
- (2) inquiries into the identity of claimants,
- (3) records to be kept on the subject of pensions,
- (4) transmission of such records
- (5) correction of such records
- (6) delivery of certificates to pensioners
- (7) register of such certificates
- (8) reference to the Civil Court, under section six, of persons claiming a right of succession to or participation in, pensions or grants of money or land revenue payable by Government

and generally for the guidance of officers under this Act

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law

SCHEDULE

Number and year	Title or subject	Extent of repeal
XXIV of 1793	I.—BENGAL REGULATIONS	
	A Regulation for re-enacting with Modifications the Rules passed by the Governor General in Council on the 10th June 1791 for determining the Continuance or Discontinuance of the Pensions heretofore paid by the Proprietors and Farmers of Land but included in the Jumma or Revenue payable to Government at the Decennial Settlement, and also of the Pensions heretofore paid from the Sayer abolished.	The whole
XXXIV of 1795	A Regulation for re-enacting with Modifications, the Rules respecting the Pensions payable from the Government and Moolky Treasuries in the Province of Benares.	The whole.

SCHEDULE—CONCLUDED

Number and year.	Title or subject	Extent of repeal.
	I—BENGAL REGULATIONS—concluded	
XXIV of 1803	A Regulation for trying the Validity of Titles of Persons receiving, or claiming a right to receive Pensions, under the Denominations of Saleenah, Rozenah, or any other Description of Grant, in the Provinces ceded by the Nawab Vizier to the Honourable the English East India Company	The whole
XXII of 1806	A Regulation for modifying the Rules hitherto observed in the admission and Payment of Claims to Pensions	The whole.
II of 1811	A Regulation for amending the existing Rules for the Support of Invalid Native Commissioned and Non Commissioned Officers	The whole
XI of 1813	A Regulation for modifying some of the Rules before established respecting the Payment of Pensions and for preventing the abuses committed in the receipt of Pensions	The whole
VI of 1817	A Regulation to explain the Purport and Intent of the Provision contained in Section II Regulation XXIV, 1803	The whole
	II—MADRAS REGULATIONS	
I of 1803	A Regulation for defining the Duties of the Board of Revenue and for determining the Extent of the Powers vested in the Board of Revenue	Section forty-three
II of 1803	A Regulation for describing and determining the Conduct to be observed by Collectors in certain cases	Section thirty.
IV of 1831	A Regulation for better securing to the	The whole
	held under Attachment or Management by the Officers of Government, or as Yeomlahs or Pensions	
	III—BOMBAY REGULATIONS	
XXIX of 1827	A Regulation for bringing under the operation of the Regulations the Bombay Territories in the Dekkan and Khanesh	Section six, clauses 2 and 3
	IV—ACTS	
XXXI of 1836	Government Grants	The whole
XXXII of 1838	Exemption of grants from attachment	The whole
VI of 1840	An Act for securing Military and Naval Pensions and Superannuation Allowances.	The whole

* The entry relating to Bengal Regulation I of 1804 was repealed by the Repealing Act, 1927 (XII of 1927)

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.
CORRECTION SLIP NO. 91-P. A. L., DATED, LAHORE, THE 12TH
JANUARY, 1938.

The Punjab Land Administration Acts, Volume I.

The Colonization of Government Lands (Punjab) Act, V of 1912

For the existing Act the following shall be substituted :—

**THE COLONIZATION OF GOVERNMENT LANDS
(PUNJAB) ACT, V OF 1912.**

CONTENTS.

SECTIONS

- 1 Title and local extent
- 2 Repeal
- 3 Definitions

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- 4 Application of the Act
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- 6 Applicability of the Punjab Tenancy Act
- 7 Applicability of the Punjab Land Revenue Act and Punjab Tenancy Act
- 8 Amendment to section 186 (1) of the Punjab Land Revenue Act
- 9 Application of Chapter IV of Land Revenue Act, 1847 to certain village sites

CHAPTER II

PROVISIONS RELATING TO TENANTS

- 10 Issue of statements of conditions of tenancies.
- 11 Legal effect of statement of conditions.
- 12 Temporary abatement
- 13 Entries in record of rights or in annual record to be kept, sent to entries in register issued under Act III of 1893
14. Position of tenants holding hitherto under Act III of 1893

SCHEDULE—CONCLUDED.

Number and year.	Title or subject	Extent of repeal.
	I.—BENGAL REGULATIONS—concluded.	
XXIV of 1803	A Regulation for trying the Validity of Titles of Persons receiving, or claiming a right to receive Pensions, under the Denominations of Saikanah, Rozenah, or any other Description of Grant, in the Provinces ceded by the Nawab Vizier to the Honourable the English East India Company	The whole.
XXII of 1806	A Regulation for modifying the Rules	The whole.
II of 1811		The whole
XI of 1813	A Regulation for modifying some of the Rules before established respecting the Payment of Pensions, and for preventing the abuses committed in the receipt of Pensions	The whole
VI of 1817	A Regulation to explain the Purport and Intent of the Provision contained in Section II, Regulation XXIV, 1803	The whole.
	II.—MADRAS REGULATIONS	
I of 1803	A Regulation for defining the Duties of	Section forty-
II of 1803		
IV of 1831	lectors in certain cases A Regulation for better securing to the Grantees personal or hereditary Grants of Money or of Land Revenue, conferred	The whole.
	held under Attachment or Management by the Officers of Government, or as Yeomjahs or Pensions	
	III.—BOMBAY REGULATIONS	
XXIX of 1827	A Regulation for bringing under the operation of the Regulations the Bombay Territories in the Dekkan and Khandesh	Section six, clauses 2 and 3.
	IV.—ACT*	
XXXI of 1836	Government Grants	The whole
XXIII of 1838	Exemption of grants from attachment	The whole.
VI of 1849	An Act for securing Military and Naval Pensions and Superannuation Allowances.	The whole

* The entry relating to Bengal Regulation I of 1801 was repealed by the Repealing Act, 1927 (XII of 1927)

THE COLONIZATION OF GOVERNMENT LANDS (PUNJAB) ACT, V OF 1912

PASSED BY THE LIEUTENANT GOVERNOR OF THE PUNJAB IN COUNCIL

(Received the assent of His Honour the Lieutenant Governor on the 18th May 1912 and that of His Excellency the Viceroy and Governor General on the 6th June, 1912 the Governor General's assent was first published in the Punjab Gazette of the 21st June 1912)

As amended by—

ACT XXXVIII OF 1920

PUNJAB ACT III OF 1920

THE GOVERNMENT OF INDIA (ADAPTATION OF INDIAN LAWS) ORDER
1937

AN ACT TO MAKE BETTER PROVISIONS FOR THE COLONIZATION AND ADMINISTRATION OF GOVERNMENT LANDS IN THE PUNJAB

WHEREAS it is expedient to make better provision for the colonization and administration of Government lands in the Punjab,

It is hereby enacted as follows —

1 (1) This Act may be called the Colonization of Government Lands (Punjab) Act 1912 Title and local extent.

(2) It extends to the Punjab

1893. 2 The Government Tenants (Punjab) Act 1893 is hereby repealed Repeal

3 In this Act unless there is something repugnant in the subject or context— Definitions

Collector means the Collector of the district as described in the Punjab Land Revenue Act, 1887, and includes (1) any officer appointed by the Provincial Government to perform all or any of the functions and exercise all or any of the powers of the Collector under this Act and (2) any Colonization Officer or Assistant Colonization Officer appointed as such before the commencement of this Act whether or no such officer was by notification appointed to perform all or any of the functions of a Deputy Commissioner under the Act hereby repealed

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- 18 Rights of tenant not to be attached or sold
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- 24 Power of imposing penalties for breaches of conditions
- 25 Power of re entry and provisions as to compensation in certain cases
- 26 Provisions for re entry on and compensation for buildings on sites allotted for residential purposes
- 27 Saving of certain tenancies and conditions
- 28 Sums due to the Crown to be recoverable as arrears of land revenue
- 29 Power to abrogate conditions

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PROVISIONS RELATING TO PROPRIETORS

- 30 Acquisition of proprietary right

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- 31 Mares, camels or their progeny maintained under prescribed conditions not to be attached or sold
- 32 Power of re entry in case of squatters and trespassers
- 33. Penalties.
- 34 Additional powers of Collector in regard to offences
- 35 Power to levy a cess for administration of common village expenses
- 36 Jurisdiction of Civil Court barred as regards matter arising under the Act
- 37. Public servants indemnified for acts done under this Act.
- 38 Legalization of orders passed previous to the Act

THE COLONIZATION OF GOVERNMENT LANDS (PUNJAB) ACT, V OF 1912.

PASSED BY THE LIEUTENANT-GOVERNOR OF THE PUNJAB IN COUNCIL.

(Received the assent of His Honour the Lieutenant Governor on the 18th May, 1912, and that of His Excellency the Viceroy and Governor-General on the 6th June, 1912 the Governor-General's assent was first published in the "Punjab Gazette" of the 21st June, 1912)

As amended by—

ACT XXVIII OF 1920.

PUNJAB ACT III OF 1920

THE GOVERNMENT OF INDIA (ADAPTATION OF INDIAN LAWS) ORDER,
1937.

AN ACT TO MAKE BETTER PROVISIONS FOR THE COLONIZATION AND ADMINISTRATION OF GOVERNMENT LANDS IN THE PUNJAB

WHEREAS it is expedient to make better provision for the colonization and administration of Government lands in the Punjab;

It is hereby enacted as follows —

1. (1) This Act may be called the Colonization of Government Lands (Punjab) Act, 1912 Title and local extent.

(2) It extends to the Punjab

1893. 2 The Government Tenants (Punjab) Act, 1893, is hereby repealed Repeal.

3 In this Act, unless there is something repugnant in the subject or context— Definitions.

"Collector" means the Collector of the district as described in the Punjab Land Revenue Act, 1897, and includes (1) any officer appointed by the Provincial Government to perform all or any of the functions and exercise all or any of the powers of the Collector under this Act, and (2) any Colonization Officer or Assistant Colonization Officer appointed as such before the commencement of this Act, whether or no such officer was by notification appointed to perform all or any of the functions of a Deputy Commissioner under the Act hereby repealed

"Commissioner" includes any officer appointed by the Provincial Government to perform all or any of the functions and exercise all or any of the powers of a Commissioner under this Act

"Colony" means any area to which this Act shall be applied by order of the Provincial Government and, unless the Provincial Government otherwise directs, any area to which the Government Tenants (Punjab) Act, 1893, III of 1893, has been applied

"Prescribed" means sanctioned by the Provincial Government under this Act or under the Act hereby repealed

"Improvements" means such improvements as defined in section 4 (19) of the Punjab Tenancy Act, 1887, as the XVI of 1887 tenant is permitted to make under the conditions applicable to his tenancy

"Tenant" means any person holding land in a colony as a tenant of the Crown, and includes the predecessors and successors in interest of a tenant

"Original tenant" means any male to whom a tenancy is first allotted by the Collector, and includes the male transferee of such a tenant and any male nominated by the Collector in accordance with the provisions of section 21 to succeed a female, to whom a tenancy was first allotted *

Punjab Act,
III of 1920

CHAPTER I.

PRELIMINARY.

4 This Act shall, unless the Provincial Government otherwise directs, apply to land to which the provisions of the Government Tenants (Punjab) Act, 1893, have been applied and to any other land III of 1893 to which the Provincial Government may by notification in the official Gazette apply it and which at the time of the notification was the property of the Crown for the purposes of the Province.†

Provided that unless the Provincial Government by general or special order otherwise directs,‡ nothing in sections 20, 21, 22 and 23, or in the proviso to section 14, of this Act shall [§] apply to tenancies XXXVIII specified in Schedule I of this Act or to any class of tenancies created of 1920 hereafter which the Provincial Government may declare to be scheduled tenancies under this section |

*This definition was added by the Colonization of Government Lands (Punjab) Amendment Act, 1920

†For a list of areas to which the Act has been applied please see page VI of Appendix I to the Punjab Colony Manual (1933 edition)

‡These words were inserted by the Devolution Act, 1920

§The words "without the previous sanction of the Governor General in Council" were omitted by the Devolution Act 1920

[For a list of scheduled tenancies—see note to Schedule I below, page 12]

5 The Provincial Government may, at any time by notification in the official Gazette, withdraw a colony or any part of a colony from the operation of all or any of the provisions of this Act

Power to withdraw a colony from the operation of the Act.

6 (1) Except as provided in section 7 of this Act, the Punjab Tenancy Act, 1887, shall not be applicable to tenancies held under this Act

Applicability of the Punjab Tenancy Act

(2) Nothing in sub-section (1) of this section shall affect the application of the Punjab Tenancy Act, 1887, to any matter or dispute arising between tenants of the Crown and their sub-tenants to which the Crown is not a party

XVI of 1837.

7 Subject to the provisions of this Act, the Punjab Land Revenue Act, and Chapter VII of the Punjab Tenancy Act, and the rules made thereunder shall, in so far as they are applicable, apply to all proceedings under this Act. But nothing in the Punjab Land Revenue Act or the Punjab Tenancy Act 1887 shall be so construed as to vary or invalidate any condition entered in any statement of conditions issued by the Provincial Government and in particular shall not be so construed as to limit successions to tenancies otherwise than as provided in such statement of conditions

Applicability of the Punjab Land Revenue Act and Punjab Tenancy Act.

8 Section 136 (1) of the Punjab Land Revenue Act, 1887, shall be amended by inserting after the words "under section 19" the words "or any Revenue Officer in a colony"

Amendment to section 136 (1) of the Punjab Land Revenue Act.

9 Notwithstanding anything in section 4 of the Land Revenue Act, 1887, the provisions of Chapter IV of that Act shall apply to all village sites in a colony

Application of Chapter IV of Land Revenue Act, 1887, to certain village sites.

CHAPTER II

PROVISIONS RELATING TO TENANTS

10 (1) The Provincial Government may grant land in a colony to any person on such conditions as it thinks fit.

Issue of statements of conditions of tenancies.

(2) The Provincial Government may issue a statement or statements of the conditions on which it is willing to grant land in a colony to tenants

(3) Where such statements of conditions have been issued, the Collector may, subject to the control of the Financial Commissioner, allot land to any person, to be held subject to such statement of conditions issued under sub-section (2) of this section as the Collector may by written order declare to be applicable to the case

(4) No person shall be deemed to be a tenant or to have any right or title in the land allotted to him until such a written order has been passed and he has taken possession of the land with the permission of the Collector. After possession has been so taken, the grant shall be held subject to

Legal effect
of statements
of conditions.

11. Subject to the provisions of this Act, the grant of any tenancy in accordance with any statement of conditions which has been or may hereafter be issued by the Provincial Government under the Government Tenants (Punjab) Act, 1893, or under this Act shall be deemed to be a transfer of land within the meaning of the Crown Grants Act, 1895, and shall be governed by the provisions of the said Act

12. Any condition included in any statement of conditions which imposes an obligation of residence shall not be deemed to have been infringed by reason only of the temporary absence of a tenant who has established a permanent residence in the estate in which his holding is situated

Entries in
record-of-
rights or in
annual record
to be equiva-
lent to entries
in register
issued under
Act III of
1893.

13 Where in any statement of conditions issued before the commencement of this Act reference is made to any register prescribed under the Government Tenants (Punjab) Act, 1893, then the record-of-rights or the annual record shall, so far as may be, be deemed to be such a register.

Possession of
tenants hold-
ing hitherto
under Act III
of 1893

14 Any person, who at any time before the commencement of this Act, was a tenant from the Crown of land to which the Government Tenants (Punjab) Act, 1893, applied and for which a statement of conditions was issued under that Act, shall, notwithstanding any previous agreement or anything contained in the Punjab Tenancy Act, 1887, or any other enactment now in force, be deemed to have accepted and to hold the lands of which he is a tenant in accordance with such statement of conditions :

Provided that unless such tenant shall, by deed executed and registered within twelve months from the date on which this Act comes into force, declare that the succession to his tenancy shall be in accordance with the statement of conditions applicable thereto, the succession to his tenancy shall be regulated by the provision of sections 20, 21, 22 and 23 of this Act.

Purchaser
to be tenant
pending pay-
ment in full
of purchase
money

15 A purchaser from the Crown of land who has been placed in possession of the land by order of the Collector shall be deemed to be a tenant of such land until the full amount of the purchase money with any interest due thereon has been paid and the other conditions set forth in the statement of the conditions of sale issued by the Collector have been fulfilled.

False inform-
ation by a
tenant.

16 If any person who after the commencement of this Act has been put in possession of land in a colony as a tenant shall have given false information intending or having reason to believe that any officer of the Crown may be thereby deceived regarding his qualifications to become a tenant, he shall be deemed to have committed a breach of the conditions of his tenancy :

Provided that this section shall not apply to persons who have been in possession of a tenancy for more than three years or to any person who has acquired a right of ownership.

17. Subject to any orders that he may receive from the Commissioner, the Collector may allow any tenant to exchange the whole or any part of his tenancy for other land in the colony, and the land so taken in exchange shall, in the absence of any special condition to the contrary recorded in writing by the Collector, be deemed to be held on the same conditions and subject to the same obligations as the surrendered land was held

Exchange.

18. None of the rights or interests vested in a tenant from Government of land to which this Act applies shall be attached or sold in execution of a decree or order of any Court or in any insolvency proceedings

Rights of tenant not to be attached or sold

19. Except as provided in section 17, none of the rights or interests vested in a tenant by or under the Government Tenants (Punjab) Act, 1893, or this Act shall, without the consent in writing of the Commissioner, or of such officer as he may by written order empower in this behalf, be transferred or charged by any sale, exchange, gift, will, mortgage or other private contract, other than a sub lease for not more than one year in the case of a tenant who has not acquired a right of occupancy and seven years in the case of a tenant who has acquired a right of occupancy. Any such transfer or charge made without such consent in writing shall be void, and if (after the commencement of this Act) the transferee has obtained possession he shall be ejected under the orders of the Collector

Transfers of rights to be void.

Provided that the right of sub letting, conferred by this section shall not release any tenant from a condition requiring him to reside in the estate in which his tenancy is situated

20. Subject to proviso to section 14 when after the commencement of this Act, any original* tenant dies [†] the succession to the tenancy shall devolve in the following order—

Succession to original tenants

- (a) the male lineal descendants of the tenant in the male line of descent (The term 'lineal descendants' shall include an adopted son whose adoption has been ratified by a registered deed),
- (b) the widow of the tenant until she dies, or re-marries or loses her rights under the provisions of this Act;
- (c) the unmarried daughters of the tenant until they die or marry, or lose their rights under the provisions of this Act.

*The word "original" was inserted by the Colonization of Government Lands (Punjab) Amendment Act, 1920.

†The words "who is the original tenant to whom the tenancy was assigned by the Collector or who has acquired his tenancy, otherwise than by succession, from a tenant" were omitted by the Colonization of Government Lands (Punjab) Amendment Act 1920.

- (d) the successor or successors nominated by the tenant by registered deed from among the following persons, that is to say his mother, his married daughter, his daughter's son, his sister, his sister's son, and the male agnate members of his family,
- (e) the successor or successors nominated by the Collector from among the persons enumerated in clause (d) of this section

Succession to
tenants
acquiring by
succession
and to female
tenants

21 When, after the commencement of this Act, any male tenant, who is not an original tenant, dies, or any female tenant dies, marries or re marries, the succession to the tenancy shall devolve—

- (a) in the case of a female, to whom the tenancy has been first allotted, on the successor nominated by the Collector from the issue of such female tenant, or from the male agnates of the person, on account of whose services the tenancy was allotted to her,
- (b) in all other cases on the person or persons who would succeed if the tenancy were agricultural land acquired by the original tenant *

Acquisition of
ownership
not to
affect nomina-
tion of
heir

22 When a tenant has nominated a successor to his tenancy under section 20 (d) and subsequently acquires a right of ownership in the tenancy, the right of succession of the person so nominated shall, unless the deed of nomination expressly provides to the contrary, be unaffected by such acquisition of ownership

Revocation
of nomina-
tion.

23 When a tenant has, under section 20 (d) of this Act nominated a successor, he may at any time, whether before or after acquiring ownership, revoke such nomination, but not otherwise than by registered deed

Power of im-
posing penal-
ties for
breaches of
conditions

24 When the Collector is satisfied that a tenant in possession of land has committed a breach of the conditions of his tenancy, he may, after giving the tenant an opportunity to appear and state his objections—

- (a) impose on the tenant a penalty not exceeding one hundred rupees, or
- (b) order the resumption of the tenancy

Provided that if the breach is capable of rectification, the Collector shall not impose any penalty or order the resumption of the tenancy unless he has issued a written notice requiring the tenant to rectify the breach within a reasonable time, not being less than one month to be stated in the notice and the tenant has failed to comply with such notice

*This section was substituted by the Colonization of Government Lands (Punjab) Amendment Act, 1920 for the following section— "When after the commence-

25 Where an order resuming the tenancy has been passed under the last preceding section, the Collector may forthwith re-enter upon the land and resume possession of it, subject to the payment of compensation, to be fixed by the Collector, for uncut and ungathered crops, and for the improvements, if any, that may have been made by the tenant:

Power of re-entry and provisions as to compensation in certain cases.

Provided that if the tenancy be allotted to any other person, the amount of the compensation, if any, paid to the outgoing tenant shall be recoverable by the Collector from the incoming tenant

26 In any case where a tenant has been allotted a site for residential purposes in consideration of his tenancy and such tenancy has been resumed under the provisions of sections 24 and 25 of this Act, the Collector may re enter on and take possession of such site:

Provisions for re entry on and compensation for buildings on sites allotted for residential purposes

Provided that the Collector shall fix and pay to the said tenant reasonable compensation for, or permit him to remove, any buildings or improvements made by him on such site

27 (1) Nothing in sections 24, 25 or 26 shall apply to—

Saving of certain tenancies and conditions.

(a) the case of land irrigated by the Rakh and Mian Ah Branches of the Chenab Canal allotted before the twelfth day of August, 1896, or

(b) any breach of a condition regarding arboriculture included in any statement of conditions other than a statement pertaining to tree planting tenants

(2) In the case of tenancies scheduled under the proviso to section 4, the operation of sections 24, 25 and 26 of this Act shall be subject to any special provisions in the statement of conditions applicable to such tenancies relating to the resumption of the tenancy, compensation for improvements and the disposal of uncut and ungathered crops

28 All sums due to the Crown in respect of a tenancy granted in pursuance of the Government Tenants (Punjab) Act, 1893, or under the provisions of this Act or of the rules and conditions issued thereunder, and all sums due on account of fines, confiscations, costs and penalties, shall be recoverable as if they were arrears of land revenue

Sums due to the Crown to be recoverable as arrears of land revenue

29 The Provincial Government may at any time by notification in the official Gazette, abrogate any of the limitations and obligations imposed upon tenants as part of the conditions of their tenure

Power to abrogate conditions.

CHAPTER III

PROVISIONS RELATING TO PROPRIETORS

30 Notwithstanding anything entered in any statement of conditions issued under the Government Tenants (Punjab) Act, 1893, a tenant who, either in pursuance of any such condition or otherwise

Acquisition of proprietary right.

34 When the Collector is satisfied that an act punishable under section 33 has been committed, he may, in lieu of proceeding against the offender under that section or after conviction of the offender under that section—

Additional powers of Collector in regard to offences

- (i) in the case of an offence under section 33 (a) confiscate the crops growing on any land cultivated in contravention of this Act or, if the crops have been cut, recover such sum as he may assess as the value thereof from the offender,
- (ii) in the case of an offence under section 33 (c) recover such sum as he may assess as the value of the trees or tree destroyed
- (iii) in the case of an offence under section 33 (b), (d) or (e) cause the building or other encroachment to be demolished or removed or the excavation or channels to be filled up and levy the costs of so doing from the person responsible for such act

35 (1) If in any estate the majority of the tenants and owners of the estate shall apply for the levy of a cess for village purposes, the Collector may order the payment of such a cess from the proprietors, tenants and inhabitants of the village in such way and at such rates as he holds to be suitable

Lower to levy a cess for administration of common village expenses

1887 (2) Any cess leviable under this section shall be recoverable by suit under section 77 (3) (g) of the Punjab Tenancy Act 1887

36 A Civil Court shall not have jurisdiction on any matter of which the Collector is empowered by this Act to dispose and shall not take cognizance of the manner in which the Provincial Government or Collector or any other Revenue Officer exercises any power vested in it or in him by or under this Act

Jurisdiction of Civil Court barred as regards matter arising under the Act.

37 No suit shall lie against any public servant for anything done by him in good faith under this Act

Public servants indemnified for acts done under this Act.

38 (1) Any act hitherto done or order passed by the Provincial Government or by an officer holding the post of Colonization Officer, Assistant Colonization Officer or Settlement Commissioner, or exercising the powers of an Assistant Collector or of a Revenue Officer of higher class within any area to which the Government Tenants (Punjab) Act, 1893 has been applied or to which this Act may hereafter be applied which is not contrary to the provisions of this Act, shall be deemed to have been done or passed under this Act

Legalization of orders passed previous to the Act.

1893.

(2) In particular and without prejudice to the generality of the foregoing sub-section no right of occupancy or right of ownership

and no condition applicable thereto shall be invalidated by reason of—

- (2) the right having been granted before the particulars regarding it have been entered in a prescribed register ; or
- (ii) the prescribed register not having been signed by the tenant , or
- (iii) the prescribed statement of conditions having been affixed to the prescribed register instead of being prefixed thereto

Provided that if the register has not been signed by the tenant, the statement of conditions applicable to the tenancy shall be deemed to be that which was in force for tenancies of the same description at the time when the land was allotted

SCHEDULE I

LIST OF EXCEPTED TENANCIES REFERRED TO IN SECTION 4

A—In the Lower Chenab Colony the tenancies of tenants holding on the conditions applicable to—

- (1) Camel owning tenants
- (2) Camel owning Chaudhurs
- (3) Village headmen ordinary
- (4) Village headmen, mule breeding
- (5) Tree-planting tenants
- (6) Village memals

B—In the Lower Jhelum Colony the tenancies of tenants holding on the conditions applicable to—

- (1) Horse-breeding tenants
- (2) Horse breeding nazarana-paying tenants
- (3) Village headmen
- (4) Tree planting tenants
- (5) Village memals

C—In the Lower Sohay Para Colony the tenancies of tenants holding on the conditions applicable to—

Village headmen

NOTE—The following tenancies have also been declared by the Provincial Government to be scheduled tenancies under the proviso to section 4 of the Act —

- (i) In

and no condition applicable thereto shall be invalidated by reason of—

- (i) the right having been granted before the particulars regarding it have been entered in a prescribed register ;
or
- (ii) the prescribed register not having been signed by the tenant or
- (iii) the prescribed statement of conditions having been affixed to the prescribed register instead of being prefixed thereto

Provided that if the register has not been signed by the tenant, the statement of conditions applicable to the tenancy shall be deemed to be that which was in force for tenancies of the same description at the time when the land was allotted

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- (1) Horse breeding tenants
- (2) Horse breeding nazarana paying tenants
- (3) Village headmen
- (4) Tree planting tenants
- (5) Village menials

C—In the Lower Sohag Para Colony the tenancies of tenants holding on the conditions applicable to—

Village headmen

NOTE—The following tenancies have also been declared by the Provincial Government to be scheduled tenancies under the proviso to section 4 of the Act —

- (i) In the Lower Chenab Colony the tenancies of tenants holding on the conditions applicable to—
 - (1) Mule breeders—Punjab Government notification No 893 A dated the 23rd October 1912
 - (2) Laterates (in Khekha Extension)—Punjab Government notification
 - (3) Lat

- (4) Village Headmen in peasant chaks in the New Extensions—Punjab

- (5) _____

- (6) . . .

3rd June, 1937.

- (ii) In the Lower Helium Colony the tenancies of tenants holding on the conditions applicable to—

Literate grantees—Punjab Government notification No 741 C, dated the 28th February, 1936, as amended by Punjab Government notifications Nos 2394 C, dated the 13th August, 1936, 3402 C, dated the 5th November, 1936, and 4120 C and 4123 C, dated the 31st December, 1936

- (iii), In the Lower Bari Doab Colony the tenancies of tenants holding on the conditions applicable to—

- (1) Village headmen—Punjab Government Notification No 19653 R, dated the 8th September, 1919

nal Supple-

- (4) Literato grantees—Punjab Government notification No 741 C, dated the 28th February, 1936, as amended by Punjab Government notifications Nos 2591 C, dated the 13th August, 1936, 3407 C, dated the 5th November, 1936, and 4120 C and 4123 C, dated the 31st December, 1936

- (5) **Sardar Ram Singh Sukaria**—Punjab Government notification No. 1970 C, dated the 10th June, 1937

- (iv) In the Upper Jhelum Colony the tenancies of tenants holding on the conditions applicable to—

Village headmen—Punjab Government notification No 19654 Rev.
dated the 8th September, 1919

- (e) In the Nih Bar Colony the tenancies of tenants holding on the conditions applicable to—

- (1) Shop sites tenants—Punjab Government notification No 2163 D, dated the 21st May, 1926

- (2) Criminal Tribes—Punjab Government notification No 3300 D, dated the 17th August, 1926

- [illegible]

- (4) "No 3270 D. dated
ernment notifications
1937"

- (5) n No. 741 C, dated
ab Government noti
1936. 3402 C dated
23 C, dated the 31st

- (ri) In the Upper Chenab Canal Colony the tenancies of tenants hold on the conditions applicable to—

- (1) Ordinary mul breeders and mule breeding village headmen - Punjab Government notification No. 25413 dated the 27th October, 1922 as amended by Punjab Government Notification No. 25414, dated the 4th August, 1937.

- (vi) In all Canal Colonies the tenancies of village sites for certain purposes unless allotted in connection with a grant of agricultural land.—Punjab Government Notification No. 937 C, dated the 1st March 1933.

SCHEDULE II

REFERRED TO IN SECTION 30

Conditions applicable to grantees who acquired proprietary right

1 The Crown does not grant to the grantee but hereby absolutely excepts and reserves to itself out of and in respect of the said lands (1) all grounds situate in the said lands or any part thereof already marked out, excavated or otherwise utilized for the distributary channels, and (2) all existing rights to and over all mines and minerals, coals, gold washings earth oil and quarries in or under the said lands or any part thereof, together with all easements heretofore enjoyed by the Crown in respect of the said lands, or any part thereof And it likewise excepts and reserves the right of the public to use existing thoroughfares traversing the said lands or any part thereof including a width of $1\frac{1}{2}$ *kadams* on either side of survey base lines, and also any lines of road which, though not yet made, have been marked out upon the ground

2 The grantee shall at all times permit the officers of the Crown to enter and do all acts and things that may be necessary and expedient for the purpose of searching for, working, getting or carrying away any such mines and minerals, coals, gold washings, earth oil and quarries, and for the full enjoyment of the ground and of the rights hereinbefore reserved to the Crown to and over all mines and minerals, coals, gold washings, earth oil, quarries and easements in or under the said lands and all parts thereof

3 The Government agrees to pay the grantees compensation for all damage occasioned by the exercise of the rights reserved to itself in clauses 1 and 2 Such compensation shall be assessed by the Collector and if the grantee is not satisfied with the finding of the Collector, he may appeal to the Commissioner

4 The grantee shall duly comply with such directions as the Collector shall from time to time issue requiring him to construct boundary marks on the limits of the said lands or any part thereof, and shall keep them when erected in good repair to the satisfaction of the Collector

5 In the event of any dispute arising between the Provincial Government and the grantee as to the property and rights hereby reserved to the Crown, or as to any matter in any way relating thereto, or as to any of the conditions of the grant, or as to any matter or thing anywise connected therewith the said dispute shall be referred for the opinion of the Commissioner, whose decision shall be final and conclusive between the Provincial Government and the grantee

THE COLONIZATION OF GOVERNMENT LANDS (PUNJAB) ACT, V OF 1912.

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7. Applicability of the Punjab Land Revenue Act and Punjab Tenancy Act.
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36. Jurisdiction of Civil Court barred as regards matter arising under the Act.
37. Public servants indemnified for acts done under this Act.
38. Legalization of orders passed previous to the Act.

PUNJAB COLONIZATION OF GOVERNMENT LANDS ACT, V OF 1912.

PASSED BY THE LIEUTENANT-GOVERNOR OF THE PUNJAB IN COUNCIL.

(Received the assent of His Honour the Lieutenant-Governor on the 18th May 1912, and that of His Excellency the Viceroy and Governor-General on the 6th June 1912 the Governor-General's assent was first published in the "Punjab Gazette" of the 21st June 1912)

As amended by—

ACT XXXVIII OF 1920

and PUNJAB ACT III OF 1920

AN ACT TO MAKE BETTER PROVISIONS FOR THE COLONIZATION AND ADMINISTRATION OF GOVERNMENT LANDS IN THE PUNJAB

WHEREAS it is expedient to make better provision for the colonization and administration of Government lands in the Punjab

It is hereby enacted as follows —

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- (2) It extends to the Punjab
2. The Government Tenants (Punjab) Act, 1893, is hereby repealed Repeal.
- 3 In this Act, unless there is something repugnant in the subject or context— Definitions.

“Collector” means the Collector of the district as described in the Punjab Land Revenue Act, 1887, and includes (1) any officer appointed by the Local Government to perform all or any of the functions and exercise all or any of the powers of the Collector under this Act, and (2) any Colonization Officer or Assistant Colonization Officer appointed as such before the commencement of this Act whether or no such officer was by notification appointed to perform all or any of the functions of a Deputy Commissioner under the Act hereby repealed

“Commissioner” includes any officer appointed by the Local Government to perform all or any of the functions and exercise all or any of the powers of a Commissioner under this Act

“Colony” means any area to which this Act shall be applied order to the Local Government and, unless the

Local Government otherwise directs, any area to which the Government Tenants (Punjab) Act, 1887, has been applied

“ Prescribed ” means sanctioned by the Local Government under this Act or under the Act hereby repealed

“ Improvements ” means such improvements as defined in section 4 (19) of the Punjab Tenancy Act, 1887, as a tenant is permitted to make under the conditions applicable to his tenancy

“ Tenant ” means any person holding land in a colony as a tenant of Government, and includes the predecessor and successors in interest of a tenant

“ Original tenant ” means any male to whom a tenancy was first allotted by the Collector, and includes the transferee of such a tenant and any male nominated by the Collector in accordance with the provisions of Section 21 to succeed a female, to whom a tenancy was first allotted

CHAPTER I

PRELIMINARY

Application
of the Act

4. This Act shall, unless the Local Government otherwise directs, apply to land to which the provisions of the Government Tenants (Punjab) Act, 1887, have been applied and to any other land to which the Local Government may by notification in the official Gazette apply it and which at the time of the notification was the property of the Government

Provided that unless the Local Government by general or special order otherwise directs nothing in sections 20, 21, 22 and 23 or in the proviso to section 14, of this Act shall, apply to tenancies specified in Schedule I of this Act or to any class of tenancies created hereafter which the Local Government may declare to be scheduled tenancies under this section

Power to
withdraw a
colony from
the operation
of the Act.

5. The Local Government may, at any time by notification in the official Gazette, withdraw a colony or any part of a colony from the operation of all or any of the provisions of this Act

Applicability
of the Punjab
Tenancy
Act

6 (1) Except as provided in section 7 of this Act, the Punjab Tenancy Act, 1887, shall not be applicable to tenancies held under this Act

(2) Nothing in sub-section (1) of this section shall affect the application of the Punjab Tenancy Act, 1887, to any matter or dispute arising between Government tenants and their sub-tenants in which Government is not a party

7. Subject to the provisions of this Act, the Punjab Land Revenue Act, and Chapter VII of the Punjab Tenancy Act, and the rules made thereunder shall, in so far as they are applicable, apply to all proceedings under this Act. But nothing in the Punjab Land Revenue Act or the Punjab Tenancy Act, 1887, shall be so construed as to vary or invalidate any condition entered in any statement of conditions issued by the Local Government, and in particular shall not be so construed as to limit successions to tenancies otherwise than as provided in such statement of conditions

8. Section 136 (1) of the Punjab Land Revenue Act, 1887, shall be amended by inserting after the words "under section 49" the words "or any Revenue Officer in a colony."

9. Notwithstanding anything in section 4 of the Land Revenue Act, 1887, the provisions of Chapter IV of that Act shall apply to all village sites in a colony.

CHAPTER II

PROVISIONS RELATING TO TENANTS

10. (1) The Local Government may grant land in a colony to any person on such conditions as it thinks fit

(2) The Local Government may issue a statement or statements of the conditions on which it is willing to grant land in a colony to tenants

(3) Where such statements of conditions have been issued, the Collector may, subject to the control of the Financial Commissioner, allot land to any person, to be held subject to such statement of conditions issued under sub-section (2) of this section as the Collector may by written order declare to be applicable to the case

(4) No person shall be deemed to be a tenant or to have any right or title in the land allotted to him until such a written order has been passed and he has taken possession of the land with the permission of the Collector. After possession has been so taken the grant shall be held subject to the conditions declared applicable thereto

11. Subject to the provisions of this Act the grant of any tenancy in accordance with any statement of conditions which has been or may hereafter be issued by the Local Government under the Government Tenants (Punjab) Act, 1893, or under this Act shall be deemed to be a transfer of land within the meaning of the Crown Grants Act, 1895, and shall be governed by the provisions of the said Act

12. Any condition included in any statement of conditions which imposes an obligation of residence shall not be deemed to have been infringed by reason only of the temporary absence of a tenant who has established a permanent residence in the estate in which his holding is situated

Applicability of the Punjab Land Revenue Act and Punjab Tenancy Act

Amendment to section 136 (1) of the Punjab Land Revenue Act

Application of Chapter IV of Land Revenue Act 1887 to certain village sites

Issue of statements of conditions of tenancies

Legal effect of statements of conditions

Temporary absence

Entries in record of rights or in annual record to be equivalent to entries in register issued under Act III of 1893

13. Where in any statement of conditions issued before the commencement of this Act reference is made to any register prescribed under the Government Tenants (Punjab) Act, 1893, then the record-of-rights or the annual record shall, so far as may be, be deemed to be such a register III of 1893.

Position of tenants holding hitherto under Act III of 1893

14. Any person, who at any time before the commencement of this Act, was a tenant from Government of land to which the Government Tenants (Punjab) Act, 1893, applied and for which a statement of conditions was issued under that Act, shall, notwithstanding any previous agreement or anything contained in the Punjab Tenancy Act, 1887, or any other enactment now in force, be deemed to have accepted and to hold the lands of which he is a tenant in accordance with such statement of conditions III of 1893. XVI of 1887.

Provided that unless such tenant shall, by deed executed and registered within twelve months from the date on which this Act comes into force, declare that the succession to his tenancy shall be in accordance with the statement of conditions applicable thereto, the succession to his tenancy shall be regulated by the provision of sections 20, 21, 22 and 23 of this Act

Purchaser to be tenant pending payment in full of purchase money

15. A purchaser from Government of land who has been placed in possession of the land by order of the Collector shall be deemed to be a tenant of such land until the full amount of the purchase money with any interest due thereon has been paid and the other conditions set forth in the statement of the conditions of sale issued by the Collector have been fulfilled

False information by a tenant

16. If any person who after the commencement of this Act has been put in possession of land in a colony as a tenant shall have given false information intending or having reason to believe that any officer of Government may be thereby deceived regarding his qualifications to become a tenant, he shall be deemed to have committed a breach of the conditions of his tenancy

Provided that this section shall not apply to persons who have been in possession of a tenancy for more than three years or to any person who has acquired a right of ownership

Exchange

17. Subject to any orders that he may receive from the Commissioner, the Collector may allow any tenant to exchange the whole or any part of his tenancy for other land in the colony, and the land so taken in exchange shall, in the absence of any special condition to the contrary recorded in writing by the Collector, be deemed to be held on the same conditions and subject to the same obligations as the surrendered land was held

Rights of tenant not to be attached or sold

18. None of the rights or interests vested in a tenant from Government of land to which this Act applies shall be attached or sold in execution of a decree or order of any Court or in any insolvency proceedings

19 Except as provided in section 17, none of the rights or interests vested in a tenant by or under the Government Tenants (Punjab) Act, 1893, or this Act shall, without the consent in writing of the Commissioner, or of such officer as he may by written order empower in this behalf, be transferred or charged by any sale, exchange, gift, will, mortgage or other private contract other than a sub lease for not more than one year in the case of a tenant who has not acquired a right of occupancy and seven years in the case of a tenant who has acquired a right of occupancy. Any such transfer or charge made without such consent in writing shall be void, and if (after the commencement of this Act) the transferee has obtained possession, he shall be ejected under the orders of the Collector.

Transfers of rights to be void.

Provided that the right of sub-letting conferred by this section shall not release any tenant from a condition requiring him to reside in the estate in which his tenancy is situated

20. Subject to proviso to Section 14 when after the commencement of this Act, any original tenant dies the succession to the tenancy shall devolve in the following order upon—

Succession to tenants acquiring otherwise than by succession.

- (a) the male lineal descendants of the tenant in the male line of descent (The term 'lineal descendants' shall include an adopted son whose adoption has been ratified by a registered deed)
- (b) the widow of the tenant until she dies, or re marries or loses her rights under the provisions of this Act,
- (c) the unmarried daughters of the tenant until they die or marry, or lose their rights under the provisions of this Act,
- (d) the successor or successors nominated by the tenant by registered deed from among the following persons, that is to say, his mother, his married daughter, his daughter's son, his sister, his sister's son, and the male agnate members of his family,
- (e) the successor or successors nominated by the Collector from among the persons enumerated in clause (d) of this section

21. When after the commencement of this Act any male tenant, who is not an original tenant dies or any female tenant dies, marries or re marries the succession to the tenancy shall devolve—

Succession to tenants acquiring by succession.

- (a) in the case of a female to whom the tenancy has been first allotted, on the successor nominated by the Collector from the issue of such female tenant or from the male agnates of the person on account of whose services the tenancy was allotted to her,
- (b) in all other cases on the person or persons who will succeed if the tenancy were agricultural land acquired by the original tenant

residential enclosure or which has been set apart for the common purposes of a town or village community or section of the same, or for a road, canal or water-course; or

- (b) erects any building on any such land; or
- (c) fells or otherwise destroys standing trees on such land; or
- (d) otherwise encroaches on any such land; or
- (e) makes an excavation or constructs a water channel on any such land;

he shall on complaint made by order of or under authority from the Collector be punished on conviction by any Magistrate with a fine not exceeding Rs. 200.

Explanation.—The felling of trees planted by an owner or tenant on any village road or water-course traversing his holding is not an offence under this section.

Additional powers of Collector in regard to offences.

34. When the Collector is satisfied that an act punishable under section 33 has been committed, he may, in lieu of proceeding against the offender under that section or after conviction of the offender under that section,—

- (i) in the case of an offence under section 33 (a), confiscate the crops growing on any land cultivated in contravention of this Act or, if the crops have been cut, recover such sum as he may assess as the value thereof from the offender;
- (ii) in the case of an offence under section 33 (c) recover such sum as he may assess as the value of the trees or tree destroyed;
- (iii) in the case of an offence under section 33 (b), (d) or (e) cause the building or other encroachment to be demolished or removed or the excavation or channels to be filled up, and levy the costs of so doing from the person responsible for such act

Power to levy a cess for administration of common village expenses.

35. (1) If in any estate the majority of the tenants and owners of the estate shall apply for the levy of a cess for village purposes, the Collector may order the payment of such a cess from the proprietors, tenants and inhabitants of the village in such way and at such rates as he holds to be suitable

(2) Any cess leviable under this section shall be recoverable by suit under section 77 (3) (g) of the Punjab Tenancy Act, 1887. X

Jurisdiction of Civil Court barred as regards matter arising under the Act.

36. A Civil Court shall not have jurisdiction on any matter of which the Collector is empowered by this Act to dispose, and shall not take cognizance of the manner in which the Local Government or Collector or any other Revenue Officer exercises any power vested in it or in him by or under this Act.

37. No suit shall lie against any public servant for anything done by him in good faith under this Act

Public servants indemnified for acts done under this Act.

38. (1) Any act hitherto done or order passed by the Local Government or by an officer holding the post of Colonization Officer, Assistant Colonization Officer or Settlement Commissioner, or exercising the powers of an Assistant Collector or of a Revenue Officer of higher class within any area to which the Government Tenants (Punjab) Act 1893, has been applied or to which this Act may hereafter be applied, which is not contrary to the provisions of this Act, shall be deemed to have been done or passed under this Act

Legalization or orders passed previous to the Act.

(2) In particular and without prejudice to the generality of the foregoing sub-section, no right of occupancy or right of ownership and no condition applicable thereto shall be invalidated by reason of—

- (i) the right having been granted before the particulars regarding it have been entered in a prescribed register, or
- (ii) the prescribed register not having been signed by the tenant, or
- (iii) the prescribed statement of conditions having been affixed to the prescribed register instead of being prefixed thereto

Provided that if the register has not been signed by the tenant, the statement of conditions applicable to the tenancy shall be deemed to be that which was in force for tenancies of the same description at the time when the land was allotted.

SCHEDULE I

LIST OF EXCEPTED TENANCIES REFERRED TO IN SECTION 4.

A—In the Lower Chenab Colony the tenancies of tenants holding on the conditions applicable to—

- (1) Camel-owning tenants
- (2) Camel-owning Chaudhris
- (3) Village headmen, ordinary
- (4) Village headmen, mule-breeding
- (5) Tree-planting tenants
- (6) Village menials

B—In the Lower Jhelum Colony the tenancies of tenants holding on the conditions applicable to—

- (1) Horse-breeding tenants
- (2) Horse-breeding nazarana paying tenants
- (3) Village headmen
- (4) Tree-planting tenants
- (5) Village menials

C—In the Lower Sohaq Para Colony the tenancies of tenants holding on the conditions applicable to—
Village headmen

SCHEDULE II

REFERRED TO IN SECTION 30

Conditions applicable to grantees who acquired proprietary right

Exceptions
of channels,
rights to
minerals, &c

1. The Government does not grant to the grantee but hereby absolutely excepts and reserves to itself out of and in respect of the said lands (1) all grounds situate in the said lands or any part thereof already marked out, excavated or otherwise utilized for the distributary channels and (2) all existing rights to and over all mines and minerals, coals, gold washings, earth oil and quarries in or under the said lands or any part thereof together with all easements heretofore enjoyed by the Government in respect of the said lands, or any part thereof. And it likewise excepts and reserves the right of the public to use existing thoroughfares traversing the said lands or any part thereof including a width of 1½ fadams on either side of survey base lines, and also any lines of road which, though not yet made, have been marked out upon the ground.

Power of
Government
entry to
search for
minerals, &c

2. The grantee shall at all times permit the officers of Government to enter and do all acts and things that may be necessary and expedient for the purpose of searching for working, getting or carrying away any such mines and minerals, coals, gold washings, earth oil and quarries, and for the full enjoyment of the ground and of the rights hereinbefore reserved to the Government to and over all mines and minerals, coals, gold washings, earth oil, quarries and easements in or under the said lands and all part thereof.

Compensation
for
damage by
entry

3. The Government agrees to pay the grantees compensation for all damage occasioned by the exercise of the rights reserved to itself in clauses 1 and 2. Such compensation shall be assessed by the Collector, and if the grantee is not satisfied with the finding of the Collector he may appeal to the Commissioner.

Demarcation
of bound-
aries

4. The grantee shall duly comply with such directions as the Collector shall from time to time issue requiring him to construct boundary marks on the limits of the said lands or any part thereof, and shall keep them when erected in good repair to the satisfaction of the Collector.

Arbitration

5. In the event of any dispute arising between the Government and the grantee as to the property and rights hereby reserved to Government, or as to any matter in any way relating thereto or as to any of the conditions of the grant or as to any matter or thing in any way connected therewith the said dispute shall be referred for the opinion of the Commissioner, whose decision shall be final and conclusive between Government and the grantee.

REDEMPTION OF MORTGAGES ACT, 1913.

CONTENTS

SECTIONS

- 1 Preamble, title, extent and limitation of scope of Act to certain mortgages
- 2 Definitions
- 3 Application of certain sections of Punjab Tenancy Act
- 4 Petition for redemption, verification, deposit and particulars to be contained in petition
- 5 Mortgagee to be summoned
- 6 Procedure when petitioner is absent and mortgagee present
- 7 Procedure when petitioner is present and mortgagee absent
- 8 Procedure when both parties are in attendance order for redemption
- 9 Procedure in contentious cases
- 10 Inquiry into objection raised by mortgagee
- 11 Inquiry regarding sum due
- 12 Saving of suits to establish rights Setting aside *ex parte* orders or orders of dismissal
- 13 No second petition
- 14 Return of deposit
- 15 Deposit not to be attached
- 16 Cessation of interest
- 17 Power to make rules

Punjab Land Administration Acts, Volume I.

The Redemption of Mortgage (Punjab) Act No II of 1913

Below the heading on page 3 the words 'As amended by Punjab Act No VII of 1934' should be added

(Received the assent of His Honour the Viceroy and Governor General on the 8th February 1913)
Governor-General's assent was first published in the "Punjab Government Gazette" of 14th March 1913)

WHEREAS it is expedient to provide a summary procedure for the redemption of certain mortgages of land in the Punjab,

It is hereby enacted as follows

1. (1) This Act may be called the Redemption of Mortgages (Punjab) Act, 1913

(2) It extends to the Punjab

Extent.

(3) It shall apply only to mortgages of land—

Limitation of scope of Act to certain mortgages.

(a) in which, whatever the mortgage money, the land mortgaged, after excluding the area of any share in the common land of the village or of a sub-division of the village appertaining thereto and mortgaged therewith, does not exceed in area ~~50~~ acres; or

(b) in which, whatever the area, the principal money secured under the mortgage does not exceed ~~5,000~~ rupees

Provided that it shall not apply to any mortgage made under section 6 of the Punjab Alienation of Land Act, 1900

2. In this Act, unless there is something repugnant in the subject or context,—

Definitions.

(1) the expression "land" means land which is not occupied as the site of any building in a town or village and is occupied or let for agricultural purposes or purposes subservient to agriculture or for pasture, and includes—

(a) the sites of buildings and other structures on such land,

(b) a share in the profits of an estate or holding,

(c) any dues or any fixed percentage of the land revenue payable by an inferior landowner to a superior landowner,

(d) a right to receive rent,

(e) any right to water enjoyed by the owner or the occupier of land as such, and

(f) any right of occupancy

(2) the expression "Collector" shall mean the Collector of the district in which the mortgaged property or any part thereof is situated, and shall include an Assistant Collector of the 1st grade

(3) "prescribed" shall mean prescribed by rules made under this Act

Application of certain sections of Punjab Tenancy Act

3. Subject to the provisions of this Act and the rules there under, the provisions of sections 79, 80, 86 87 89, 90, 91 92 and 101 of the Punjab Tenancy Act, 1887, shall, so far as may be, apply XVI to all proceedings of a Collector under this Act

Petition for redemption

4. The mortgagor or other person entitled to institute a suit for redemption may, at any time after the principal money becomes payable and before a suit for redemption is barred, present a petition to the Collector applying for an order directing that his mortgage be redeemed and where the mortgage is with possession that he be put in possession of the mortgaged property. The petition shall be duly verified in the manner prescribed by law for the verification of plaints, and shall state the sum which the petitioner declares to the best of his belief to be due under the mortgage. The petitioner shall at the same time deposit such sum with the Collector

Verification

Deposit

Particulars to be contained in petition

The petitioner shall state in his petition such particulars and file therewith such documents as may be prescribed

Mortgagee to be summoned

5. When the petition has been duly presented and the deposit has been made the Collector shall issue to the mortgagee a summons to appear on a date to be therein specified. Every summons shall be accompanied by a copy of the petition with the date of deposit endorsed thereon

Procedure when petitioner is absent and mortgagee present

6. Where the mortgagee appears and the petitioner does not appear when the petition is called on for hearing the Collector shall unless he adjourns the proceedings make an order that the petition be dismissed unless the mortgagee admits the claim in which case the Collector shall make an order—

(a) that the mortgage be redeemed

(b) that where the mortgage is with possession the mortgagor be put in possession of the mortgaged property as against the mortgagee

(c) that the mortgagee deposit with the Collector the mortgage-deed if any if then in his possession or power and that it be delivered to the petitioner

(d) that subject to the mortgage deed if any being so deposited by the mortgagee the sum in deposit be paid to him

Provided that no such order shall be made inconsistent with any condition of the mortgage whereby a season or period of the year is fixed for redemption or for surrendering possession

7. When the petitioner appears, but the mortgagee does not appear, when the petition is called on for hearing, the Collector shall, unless he adjourns the proceedings, enquire in a summary manner (a) whether the petitioner is entitled to redeem the mortgaged property, and (b) whether the sum deposited by the petitioner is the sum rightly due under the mortgage.

Procedure when petitioner is present and mortgagee absent

If the Collector is not satisfied that the petitioner is entitled to redeem, he shall dismiss the petition.

If the Collector is satisfied that the petitioner is entitled to redeem, and that the sum deposited is the sum rightly due under the mortgage, he shall make an order as laid down in section 6 (a), (b), (c) and (d) of this Act.

If the Collector is satisfied that the petitioner is entitled to redeem, but is of opinion that a sum larger than that in deposit is due under the mortgage, he shall fix a period not exceeding 30 days within which the petitioner shall deposit the difference, together with any further sum which may be due on account of interest up to the date of deposit. If the petitioner makes such deposit within such period or such further period not exceeding 30 days as the Collector may fix, the Collector shall make an order in manner aforesaid.

If the petitioner fails to make such deposit within the period fixed, the Collector shall dismiss the petition.

8. Where both parties appear when the petition is called on for hearing, the Collector shall enquire from the mortgagee whether he admits that the petitioner is entitled to redeem, whether he is willing to accept the sum in deposit in full discharge of the mortgage debt and where the mortgage is with possession whether he is willing to surrender possession of the mortgaged property.

Procedure when both parties are in attendance: order for redemption.

If the mortgagee replies in the affirmative, the Collector shall make an order as laid down in section 6 (a) (b) (c) and (d) of this Act.

If the mortgagee admits the petitioner's title to redeem but demands payment of a sum larger than that in deposit, the Collector shall enquire from the petitioner whether he is willing to pay such larger sum, and if he replies in the affirmative, the Collector shall fix a period not exceeding 30 days within which the petitioner shall deposit the difference, together with any further sum which may be due on account of interest up to the date of deposit. If the petitioner makes such deposit within such period or such further period not exceeding 30 days as the Collector may fix, the Collector shall make an order as laid down in section 6 (a) (b) (c) and (d) above.

If the petitioner fails to make such deposit within the period fixed, the Collector shall dismiss the petition.

9. If the mortgagee raises objection on any ground other than the amount of the deposit, or if the petitioner is not willing to pay the sum demanded by the mortgagee, the Collector may either (a) for reasons to be recorded dismiss the petition, or (b) make a summary enquiry regarding the objection raised by the mortgagee or regarding the sum due.

Procedure in objection cases.

Enquiry into
objection
raised by
mortgagee

10. If on enquiry regarding any objection so raised by the mortgagee the Collector is of opinion that it bars redemption or is a sufficient cause for not proceeding further with the petition, he shall dismiss the petition, but if he is not of that opinion, he shall, unless he dismisses the petition under section 11, make an order as laid down in section 6 (a), (b), (c) and (d) of this Act

Enquiry
regarding
sum due

11. If on enquiry regarding the sum due the Collector is of opinion that the sum deposited is the sum rightly due under the mortgage, he shall, unless he dismisses the petition under section 10, make an order as laid down in section 6 (a), (b), (c) and (d) of this Act, but if he is of opinion that a sum larger than the sum deposited should be deposited by the petitioner, he shall, unless he dismisses the petition under section 10, fix a period not exceeding 30 days within which the petitioner shall deposit the difference, together with any further sum which may be due on account of interest up to date of the deposit. If the petitioner makes such deposit within such period or such further period not exceeding 30 days as the Collector may fix the Collector shall make an order as laid down in section 6 (a), (b), (c) and (d) of this Act

If the petitioner fails to make such deposit within the period fixed, the Collector shall dismiss the petition

Saving of
suits to
establish
rights.

12. Any party aggrieved by an order made under section 6, 7, 8, 9, 10 or 11 of this Act may institute a suit to establish his rights in respect of the mortgage but, subject to the result of such suit, if any, the order shall be conclusive

Setting aside
ex-parte
orders or
orders
of dismissal

Notwithstanding anything in this section a mortgagee against whom an *ex-parte* order under section 7 has been made or a petitioner whose petition has been dismissed in default under section 6 may apply to the Collector to have such order or dismissal set aside and the Collector may in his discretion set aside such order or dismissal on such terms as to costs or otherwise as he may deem fit, provided that the order or dismissal shall not be set aside unless notice of the application has been served on the opposite party

No second
petition.

13. The dismissal of a petition under this Act shall bar any further petition under this Act by the same petitioner or his representative in respect of the same mortgage

Return of
deposit.

14. If the Collector dismisses a petition under this Act, he shall order that the sum deposited by the petitioner be returned to him

Deposit not
to be attach-
ed.

15. No sum deposited with the Collector by a petitioner under the provisions of this Act shall be attached by any Court or Revenue Officer

Cessation of
interest.

16. When the petitioner has deposited with the Collector the sum declared by him to be due on the mortgage, and such sum is accepted by the mortgagee, or is found by the Collector to be the sum actually due interest on the mortgage shall cease from the date of the deposit

Where the Collector finds that a further sum is due and the petitioner deposits such further sum, interest shall cease from the date of such further deposit.

Provided that nothing in this section shall be deemed to deprive the mortgagee of his right to interest when there exists a contract that he shall be entitled to reasonable notice before payment or tender of the mortgage money:

~~Provided also that where a suit is instituted under section 12,~~

FINANCIAL COMMISSIONERS' OFFICE, PUNJAB.

CORRECTION SLIP NO 140-P L A , DATED LAHORE, THE 10TH
OCTOBER, 1938

Punjab Land Administration Acts, volume I.

Redemption of Mortgages (Punjab) Act, no. II of 1913.

Section 17, page 7.

In correction slip no 17 P.L.A., dated the 17th July, 1937,
insert the following in the margin —

“ The Government of India (Adaptation of Indian Laws) Order, 1937 ”

354 FC—3 500—21 10 37—SGPP Lahore

INDIAN FISHERIES ACT IV OF 1897.

CONTENTS

SECTIONS

- 1 Title and extent
- 2 Act to be read as supplemental to other Fisheries Laws.
- 3 Definitions
- 4 Destruction of fish by explosives in inland waters and on
coasts
- 5 Destruction of fish by poisoning of waters
- 6 Protection of fish in selected waters by rules of Local
Government
7. Arrest without warrant for offences under this Act

Destruction
of fish by
poisoning of
waters

5. (1) If any person puts any poison, lime or noxious material into any water with intent thereby to catch or destroy any fish, he shall be punishable with imprisonment for a term which may extend to two months or with fine which may extend to two hundred rupees.

(2) The ^{Provincial} Local Government may, by notification in the official Gazette, suspend the operation of this section in any specified area, and may in like manner modify or cancel any such notification.

Protection of
fish in select
ed waters by
rules of Local
Government

6. (1) The ^{Provincial} Local Government may make rules for the purposes hereinafter in this section mentioned, and may by a notification in the official Gazette apply all or any of such rules to such waters not being private waters as the Local Government may specify in the said notification.

(2) The ^{Provincial} Local Government may also by a like notification, apply such rule or any of them to any private water with the consent in writing of the owner thereof and of all persons having for the time being any exclusive right of fishery therein.

(3) Such rules may prohibit or regulate all or any of the following matters, that is to say—

(a) the erection and use of fixed engines

(b) the construction of weirs and

(c) the dimension and kind of the nets to be used and the modes of using them.

(4) Such rules may also prohibit all fishing in any specified water for a period not exceeding two years.

(5) In making any rule under this section the ^{Provincial} Local Government may—

(a) direct that a breach of it shall be punishable with fine which may extend to one hundred rupees, and when the breach is a continuing breach with a further fine which may extend to ten rupees for every day after the date of the first conviction during which the breach is proved to have been persisted in; and

(b) provide for—

(i) the seizure, forfeiture and removal of fixed engines erected or used or nets used in contravention of the rule; and

(ii) the forfeiture of any fish taken by means of any such fixed engine or net.

(6) The power to make rules under this section is subject to the condition that they shall be made after previous publication.

7. (1) Any police officer, or other person specially empowered by the Local Government in this behalf, either by name or as holding any office, for the time being, may, without an order from a Magistrate and without warrant, arrest any person committing in his view any offence punishable under section 4 or 5 or under any rule under section 6—

Arrest without warrant for offences under this Act.

(a) if the name and address of the person are unknown to him, and

(b) if the person declines to give his name and address or if there is reason to doubt the accuracy of the name and address if given

(2) A person arrested under this section may be detained until his name and address have been correctly ascertained

Provided that no person so arrested shall be detained longer than may be necessary for bringing him before a Magistrate, except under the order of a Magistrate for his detention

THE PUNJAB FISHERIES ACT, 1914.

CONTENTS.

SECTIONS.

1. Title and extent.

2. Meaning of terms.

2-A. Definitions.

3. Prohibition and licensing of fishing in selected waters by rules of Local Government.

4. Power to prohibit sale of fish.

5. Penalty.

6. Arrest without warrant for offences under the Act.

7. Saving of powers under Indian Fisheries Act.

8. Power to compound certain offences.

The Schedule.

THE PUNJAB FISHERIES ACT.

8

PASSED BY THE LIEUTENANT-GOVERNOR OF THE PUNJAB IN COUNCIL.

(Received the assent of His Honour the Lieutenant-Governor on the 15th January 1914 and that of His Excellency the Viceroy and Governor-General on the 29th January 1914, and was first published in the Gazette of the 13th February 1914.)

As amended by Punjab Act IV of 1923

AN ACT TO EXTEND THE LAW RELATING TO FISHERIES IN THE PUNJAB

WHEREAS it is expedient to extend the Law relating to Fisheries in the Punjab,

It is hereby enacted as follows.—

1. (1) This Act may be called the Punjab Fisheries Act, 1914 Title.

(2) It extends to the whole of the Punjab Extent.

2. In this Act and the Rules thereunder unless there is something repugnant in the subject or context, the expressions "fish" and "private water" shall have the meanings assigned to them in section 3 of the Indian Fisheries Act, 1897 Meaning of terms.

2-A. In this Act, unless there is anything repugnant in the subject or context— Definitions.

(3) Such rules may—

(a) prohibit fishing except under license and regulate the granting of such licenses, the fees payable therefor, and the conditions to be inserted therein,

(b) prescribe reasons in which the killing of any fish of any prescribed species shall be prohibited; and

(c) prescribe a minimum size of weight below which no fish of any prescribed species shall be killed

(4) In making any rule under this section the ^{Provincial} Local Government may provide for—

(a) the seizure, forfeiture and removal of any apparatus erected or used for fishing in contravention of the rules, and

(b) the forfeiture of any fish taken by means of any such apparatus

(5) The power to make rules under this section is subject to the condition that they shall be made after previous publication

Power to prohibit sale of fish.

4. The ^{Provincial} Local Government may by notification prohibit in any specified areas the offering or exposing for sale or barter of any fish killed in contravention of any rule made under section 3 (3) (b) and (c) of this Act

Penalty

5. The breach of any rule made under section 3 or of any prohibition notified under section 4 shall be punishable with fine which may extend to one hundred rupees, and when the breach is a continuing breach, with a further fine which may extend to ten rupees for every day after the date of the first conviction during which the breach is proved to have been persisted in

Arrest with out warrant for offences under the Act.

6. (1) Any police officer, or other person specially empowered by the ^{Provincial} Local Government in this behalf, may without a warrant arrest any person committing in his view a breach of any rule made under section 3 or of any prohibition notified under section 4—

(a) if the name and address of the person are unknown to him, and

(b) if the person declines to give his name and address, or if there is reason to doubt the accuracy of the name and address, if given

(2) A person arrested under this section may be detained until his name and address have been correctly ascertained

Provided that no person so arrested shall be detained longer than may be necessary for bringing him before a Magistrate, except under the order of a Magistrate for his detention

Saving of powers under Indian Fisheries Act.

7. Nothing in this Act shall be deemed to limit the powers of the ^{Provincial} Local Government to make rules under section 6 of the Indian Fisheries Act, 1897.

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8. (1) The ^{*Provincial*} Local Government may by notification empower a fishery officer by name or as holding an office—

Power to
compound
certain
offences.

(a) to accept from any person concerning whom evidence exists which if un rebutted would prove that he has committed any fishing offence as described in the first column of the Schedule a sum of money by way of compensation for the offence with regard to which such evidence exists and on the payment of such sum to such officer such person if in custody shall be discharged and no further proceedings shall be taken against him;

(b) when any property has been seized as liable to confiscation, to release the same without further payment, or on payment of the value thereof as estimated by such officer, and on the payment of such value such property shall be released and no further proceedings shall be taken in respect thereof.

(2) The sum of money acceptable as compensation under clause (a) of sub-section (1) shall in no case exceed the amount mentioned in the second column of the Schedule as the amount acceptable as compensation for the particular offence described in the first column of the schedule.

THE SCHEDULE

(See section 8.)

Maximum amounts acceptable as compensation for certain fishing offences under section 8.

Description of offence.	Maximum amount acceptable as compensation.
1. Fishing with a net having a smaller mesh than that prescribed under the rules made under the Act	Rupees ten.
2. Fishing without a license	Rupees ten.
3. Killing fish of a size or weight less than the standard prescribed under this Act.	Rupees ten.
4. Killing any fish of a prohibited species during a close season.	Rupees ten.

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